

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 Romania, hereinafter referred to as "THE RECIPIENT"

on the other part,

HAVE AGREED AS FOLLOWS:

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

ARTICLE 1 - NATURE AND SUBJECT

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

<u>Programme number:</u>	RO 0003
<u>Title:</u>	2000 Cross-Border Co-operation Programme between Romania and Hungary
<u>Duration:</u>	Until 31 December 2002

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

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

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting **until 31 December 2002** subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is **31 December 2003**. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.

ARTICLE 4 - ADDRESSES

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

for the COMMUNITY:

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

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

for THE RECIPIENT:

The Government Romania
Ministry of Foreign Affairs
Department for European Affairs
Aleea Modrogan 14
Bucharest
Romania

Tel.: (40-1) 230 66 25
Fax: (40-1) 230 35 33

ARTICLE 5 - NUMBER OF ORIGINALS

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

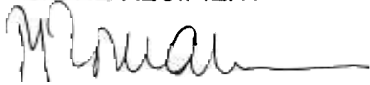
ARTICLE 6 - ENTRY INTO FORCE

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 08.11.2000

for THE RECIPIENT



Mr. P. Roman
Deputy Prime Minister
Minister of Foreign Affairs
National Aid Co-ordinator

Done at Bucharest
Date 08.11.2000

for THE COMMUNITY



Mr. F. Fotiadis
Head of European Commission
Delegation to the Republic of Romania

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

ANNEX 2 SPECIAL PROVISIONS

1. OBJECTIVES, DESCRIPTION AND CONDITIONALITY

1.1. The wider objectives of the programme are:

- To promote good neighbourliness and stability in the CEEC border regions 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 improve the existing infrastructure and to develop border crossing (Projects RO0003.01.01, HU0009.01.01 and HU0009.01.02)
- To promote the environmental protection by reducing the effects of natural calamities in the flood meadow of the Barcău River and supplying the necessary water during the period of low water (Project RO0003.02.01) and improving the Tur River water quality in the bordering region with Hungary, including the development of sewerage network in Negrești Oaș (Project RO0003.02.02)
- Setting up of a flexible mechanism that financing 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 (Projects RO0003.03.01 and HU0009.03.01)

An environmental impact assessment in line with the requirements of Directive 85/337/EEC as amended by Directive 97/11/EC, where applicable, will be carried out for all projects under the programme.

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 2000 Programme are in accordance with the content of the JPD.

The following projects will be undertaken:

1.3.1 - PRIORITY 01: Infrastructure Development and Border Crossing Development

Project RO0003.01.01 – Infrastructure facilities for Cenad/Kiszombor Border Crossing Point, 2nd phase

The achievement of the investment target for Cenad/Kiszombor border crossing point represents the completion of the second stage of the integral concept started by the Project 01.02.-

“Rehabilitation of DN6 (10 km) between Timișoara and the Hungarian border (Cenad)”, within Phare CBC Romania/Hungary Programme (RO9912).

The activities undertaken, meaning the completion of the road/traffic and urban infrastructure of the border crossing point, including the effective construction of the custom house, will support the construction and upgrading of an access road to Pan-European transport corridor IVc and its future integration with the Trans-European transport networks of the European Union, according to requirement of the Commission Regulation (EC) No. 2760/98, Art. 5.1(a) and Art. 5.1(e).

This project is an integral part of the implementation stage of “Strategy of Regional Development of the Western Border Region”, achieved as part of Phare CBC Romania/Hungary (ZZ9624) finalised on December 1999. It also appear in the regional Economic Development Concept-West Region No.5 of Romania, completed in 1998 as part of a co-operation programme between the counties of the region, co-financed by Phare Partnership Programme.

The development of this project mainly refers to ensuring the direct link between *Timiș* - Romanian County and *Csongrad*-Hungarian County, connecting them to the Pan-European Corridor IV, with direct effects on the economic development of the entire region.

This project together with the Hungarian “mirror” project “*Construction and modernisation of public road 43109, leading to the border crossing point Kiszombor/Csanad, phase 2*”, approved for financing within 1999 Phare CBC HU/Ro Programme, will reduce the distance between Timiș County and Csongrad County, increasing low costs exchanges and circulation between Romania and Hungary.

Applicant name:	Timiș County Council
Total project cost:	1,330,000 EURO
Phare CBC:	1,000,000 EURO
Own contribution:	330,000 EURO
Hungarian mirror project:	HU-RO CBC99-01-01 “Construction and modernisation of public road 43109, leading to the border crossing point Kiszombor/Csanád (phase 2)”

Project HU0009.01.01 - Modernisation of the border crossing point at Csengersima, phase II.

As a continuation of the project Phare CBC HU-RO ZZ9622-02-01, it will improve border management, the conditions of heavy traffic, the control of goods transport and reinforce administrative and operational capacity. Co-financing the goods terminal of the present project is provided by the customs authority. Through the implementation of the project, the Hungarian and the Romanian part of the border crossing point will have the same capacity. The project has a mirror project in Romania: Phare CBC RO-HU ZZ9624-02.

Applicant name:	Szabolcs-Szatmár-Bereg County Self-government and Hungarian Customs and Finance Guard
Project registration number:	HU-RO Phare CBC 2000-01-01
Total project cost:	7,520,000 EUR
Phare CBC:	2,250,000 EUR
Own source:	5,270,000 EUR

Project HU0009.01.02 - Bihar Regional Enterprise Zone, phase II.

The project is the continuation, second phase of project HU9705-04-04 included in Phare CBC 1997. Programme (financed from COP '97 Fund). The project will establish an agricultural unit within the Bihar Entrepreneurial Zone taking into consideration the cross border production and

integration possibilities helping the creation and development of agricultural small and medium-sized enterprises. Co-financing is provided by the Bihar Self-governments Association.

Applicant name:	Bihar Self-government Association
Project registration number:	HU-RO Phare CBC 2000-01-02
Total project cost:	3,000,000 EUR
Phare CBC:	2,250,000 EUR
Own source:	750,000 EUR

1.3.2 - PRIORITY 02: Environmental Protection Projects

Project RO0003.02.01 – Flood Prevention: Suplacu de Barcău Permanent Accumulation Basin

The present project, through its surveillance zone, from the hydro-meteorological point of view, completes other ongoing projects financed under 1996 and 1999 Phare CBC Programmes between Romania and Hungary, called “Flood prevention in the Cris River Basin”(ZZ9624) and “Flood prevention in the upstream Tisa River Basin”(RO9912). At the same time, the project is part of an active programme to support the population living in disadvantageous, isolated and often flooded regions, being included in the “National programme of the arrangement of hydrographic basins in Romania”.

Because of the hydrographic Barcău River basin location within the frontier region, the previous floods affected the Hungarian territory as well. Therefore a protocol was signed as concerns the water flows and levels on the main watercourse of the Barcău River.

By the achievement of the accumulation basin, Romania and Hungary will be able to control much better that servitude water flow.

Through the completion of this project the following immediate effects are expected:

- Reduction of the flood consequences for the settlements, the communication lines, the social-economic facilities and the agricultural fields in the flooded meadow of the Barcău River;
- During the period of low water, it will allow the localities in Suplacu de Barcău – Marghita to be supplied with the necessary water;
- The minimum water flow in the frontier section established by agreement with Hungary will be respected.

This project together with the Hungarian projects ZZ9622-03/01, ZZ9622-03/02 and ZZ9622-03/03 (ongoing “echo-mirror” projects) extend the activities concerning flood prevention and water management to the whole border area.

The activities undertaken will be in line with requirements of the Commission Regulation (EC) No. 2760/98, Art. 5.1(c), referring the “environmental management dealing with problems exacerbated by the proximity to external borders”.

According the national development strategy and taking into account the fact that the floods represent the direct cause of losing human life, Romanian Ministry of Waters, Forest and Environment Protection considers this project as a short-term priority.

Applicant name:	Ministry of Waters, Forests and Environment Protection Bihar County Council “Romanian Waters” National Company – Oradea Branch
Total project cost:	7,000,000 EURO

Phare CBC:	1,800,000 EURO
Own contribution:	5,200,000 EURO
Hungarian mirror projects:	ZZ9622-03/04 “Development of monitoring system on the River Berettyó (Barcău)” and the other ones above-mentioned.

Project RO0003.02.02 – Tur River Environmental Protection

The present project will contribute to the improvement of Tur River and Călinești-Oaș artificial lake water quality and the drinking water quality in Negrești-Oaș area. The activities undertaken will be in line with requirements of the following EC Directives (referring to water, urban wastewater and drinking water priority sectors): Urban Wastewater Treatment (91/271/EEC), Drinking Water Quality (80/778/EEC) and IPPC (96/61/EC).

Through the completion of this project the following immediate objectives will be achieved:

- Extension of housing sewerage network with 50 km;
- Extension of pluvial sewerage network with 45 km;
- Extension and modernisation of water cleaning installations;
- Monitoring of Tur River water quality in the area situated between the Negrești-Oaș water treatment plant and the Hungarian border.

The activities undertaken will lead to direct effects concerning the environment on medium and long-term period on both sides of the Romanian-Hungarian border, as follows:

- Prevents and removes the main pollution sources along the Tur River, including improvement of ground water quality and stabilisation of ecosystems' equilibrium of both river and Călinești-Oaș artificial lake;
- It will allow the compliance with quality limits in the border region according to the Cross-Border Waters Convention

Applicant name:	Negrești-Oaș City Council “Romanian Waters” National Company-Cluj Branch
Total project cost:	2,300,000 EURO
Phare CBC:	1,700,000 EURO
Own contribution:	600,000 EURO

1.3.3. PRIORITY 03: Socio-economic development

Projects RO0003.03.01 and HU0009.03.01 – 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. A “mirror” and equal fund will be available for each counterpart, being agreed unanimously by the Joint Co-operation Committee (JCC).

The SPF is designed to make available a total Phare contribution of 500,000 EURO/country (10% of the total programme budget). The JCC members agreed on increasing gradually the allocated amount for SPF to the maximum size by the year 2002, up to 20% of the total annually available budget/country.

Concerning administrative support for operating the fund, the Phare contribution may finance indirect (overhead) costs up to 7% of total amount eligible costs (maximum 35 000 Euro for each country).

The Regional Study project concluded within Phare Programme ZZ9624 developed a regional strategy and an institutional framework for CBC activities in the Romanian/Hungarian border

region, including a list of proposed projects agreed by local authorities, that should be taken into account for SPF.

As stated within the Art. 5.2 of EC Regulation No. 2760/98, these kind of actions have to involve local actors from the border region, creating common benefits for region communities in the two countries.

For Romania, the project proposals will be collected to the Regional Office, by announcing the call for proposals and selected by the Romanian part of JCC nominated within Joint Small Projects Fund Committee, according to the defined criteria.

For Hungary, the projects are collected by announcing a Call for Proposals and then selected by the Joint Small Projects Fund Committee, the Fund is managed by the Békéscsaba Phare Regional Office.

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

2. BUDGET

No.	Priority / Project Title	PHARE			National Co-financing in €	Total in €
		Institution Building	Investment	TOTAL		
	Infrastructure development and border crossing development		5.500.000	5.500.000	6.350.000	11.850.000
RO0003.01.01	Infrastructure facilities for Cenad/Kiszombor Border Crossing Point, 2 nd phase		1.000.000	1.000.000	330.000	1.330.000
HU0009.01.01	Modernisation of the border crossing point at Csengersima, phase II.		2.250.000	2.250.000	5.270.000	7.520.000
HU0009.01.02	Bihar Regional Enterprise Zone, phase II.		2.250.000	2.250.000	750.000	3.000.000
	Environmental Protection Projects		3.500.000	3.500.000	5.800.000	9.300.000
RO0003.02.01	Flood Prevention: Suplacu de Barcău Permanent Accumulation Basin		1.800.000	1.800.000	5.200.000	7.000.000
RO0003.02.02	Tur River Environmental Protection		1.700.000	1.700.000	600.000	2.300.000
	Socio-economic development	1.000.000	0	1.000.000	100.000	1.100.000
RO0003.03.01	Joint Small project fund	500.000	0	500.000	50.000	550.000
HU0009.03.01	Joint Small project fund	500.000	0	500.000	50.000	550.000
	Romania	500.000	4.500.000	5.000.000	6.180.000	11.180.000
	Hungary	500.000	4.500.000	5.000.000	6.070.000	11.070.000
	TOTAL	1.000.000	9.000.000	10.000.000	12.250.000	22.250.000

3. IMPLEMENTATION ARRANGEMENTS

3.1. Institutional Structures in Romania

The Implementing Agency (IA) of the Programme on the Romanian side is the Central Finance and Contracts Unit (CFCU) of the Ministry of Finance. The Implementing Authority acting as co-ordinator for the programme is the National Agency for Regional Development (NARD).

The Implementing Agency (CFCU) retains overall responsibility for the implementation of the programme, including: approval of terms of reference, tender documents, evaluation criteria, evaluation of offers, signature of contracts, authorisation and payments of invoices.

They will work closely together with the National Agency for Regional Development (NARD), nominated by the Romanian Government as National Co-ordinator for CBC programmes, and the beneficiary institutions identified below, in order 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.

In order to ensure the day-by-day management (except financial aspects) of all the related activities to the programme, the NARD has set up a Programme Co-ordination Unit. This unit shall carry on its specific tasks according to the provisions of the Governmental Emergency Ordinance no. 52/99 regarding the creation of a unitary framework for the management out of foreign loans contracted or state guaranteed, reimbursable or non-reimbursable.

The overall responsibility for these activities has been taken over by the NARD Secretary General, nominated as Senior Programme Officer (SPO).

Project beneficiary institutions report monthly to the CBC Implementing Agency, including direct copies to the EC Delegation, with commitment and disbursement schedules and sufficient details to allow assessment of progress made and remaining work to be accomplished.

The project beneficiary institutions are as follow:

- Timis County Council (Project RO0003.01.01). Timis County Council will set up a project team adequate staffed with full time experts.
- Ministry of Waters, Forests and Environment Protection / Bihor County Council / “Romanian Waters” National Company – Oradea Branch (Project RO0003.02.01). “Romanian Waters” National Company – Oradea Branch will set up a project team adequate staffed with full time experts.
- Negrești-Oaș City Council / “Romanian Water” National Company-Cluj Branch (Project RO0003.02.02). “Romanian Water” National Company-Cluj Branch will set up a project team adequate staffed with full experts.

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 already set up a Programme Management Unit 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-rising activities and management of Small Projects Fund.

3.3. Implementation arrangements in Romania

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

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 competent National Financial Control Authority with respect to the Programme implementation shall carry out the appropriate financial control.

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 Agreement (FA) between the NF and the Implementing Agencies (IA). 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. Furthermore, the NAO must submit to the Commission the designation of the Programme Authorising Officer (PAO) and a description of the system related to the flow of transactions between the NF and IA. Four replenishments will be made up to 20% of funds to be managed locally or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when the IA has disbursed 10% of the budget. The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the Implementation Agency exceeds 10% of the total budget in force of the commitment. Exceptionally the NAO may request an advance payment of more than 20% according to the procedures laid down in the above-mentioned Memorandum of Understanding.

The National Fund will transfer funds to the Implementing Agency according to the Financing Agreement (FA) signed between the NF and the IA. The FA will be endorsed in advance by the European Commission. In case where the NF is itself the paying agent for the IA there will be no transfer of funds from the NF to the IA. A Programme Authorising Officer appointed by the NAO after consultation with the NAC will head the Implementing Agency. The PAO will be responsible for all the operations carried out by the Implementing Agency.

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 PAO will ensure that all contracts are prepared according to the DIS Manual procedures and with the following provisions under 6.4.

All contracts must be concluded by December 31, 2002.

All disbursements must be concluded by December 31, 2003.

The Commission will recover any funds not used before the dates above-mentioned.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period, 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 the 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. The National Aid Co-ordinator (NAC), who is the Minister Responsible for the Co-ordination of the Phare Programmes, will have overall responsibility for programming, monitoring and implementing Phare programmes in Hungary.

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. Appropriate financial control will 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 Agreement (FA) between the NF and the Implementing Agencies (IA). 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. Furthermore, the NAO must submit to the Commission the designation of the Programme Authorising Officer (PAO) and a description of the system related to the flow of transactions between the NF and IA.

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 IA. The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the IA 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 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. Each individual FA will be endorsed in advance by the European Commission. The IA must be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all the operations carried out by the relevant IA. The NAO and the PAO 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 December 31, 2002. All disbursements must be concluded by December 31, 2003. The Commission will recover any funds not used before the dates above-mentioned.

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 Programming and Monitoring 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:

- President/Romanian National Agency for Regional Development;
- Secretary of State/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 Phare CBC Hungarian 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, including the NAO, the NAC and the Commission. The JMC will meet once a year at least 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 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 JCC will review in detail the progress of the programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultant (according to the DIS Manual provisions), and will put forward recommendations on aspects of management and design, ensuring these are effected. The JCC will report to the JMC, to which it will submit overall detailed reports on all Phare funded CBC programmes.

5. AUDIT AND EVALUATION

The accounts and operations of the National Funds of Romania and Hungary, and all relevant Implementing Agencies may be checked at regular intervals, 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 Programme Authorising Officers of Romania and Hungary (PAO) will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the Programme. This will be done in close liaison with the Commission Delegation.

7. SPECIAL CONDITIONS

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

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

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ANNEX 3

Visibility/Publicity Annex

INFORMATION AND PUBLICITY FOR THE PHARE PROGRAMME 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,:

- measures to make potential beneficiaries and the general public aware of Phare 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 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 Programme, is providing financial support. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the Phare Programme. 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 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 Programme 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 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 Programme, 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 Phare Programme .

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.