

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>	2002/000-625
<u>Title:</u>	2002 Cross-Border Co-operation Programme between Bulgaria and Romania
<u>Duration:</u>	Until 30 November 2004 for contracting

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 2004** 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 2005** with the exception of project 2002/000-625-01 "Check Point and Cross Border by ferryboat Turnu Magurele (Romania) – Nikopol (Bulgaria)" and 2002/000-625-02 "Rehabilitation of National Road NR 3B, between the crossroad with NR 3 and Calarasi, from km 0+000 to km 3+020", where the disbursement expiry dates are **30 November 2006**. 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 in Bucharest
Bd Primaverii 48
71297 Bucharest
Romania
Tel: 40 21 203 54 00
Fax: 40 21 230 24 53*

for THE RECIPIENT:

*Mrs Hildegard Puwak
Minister of European Integration
Government of Romania
Str Apolodor 17
Bucharest
Romania
Fax: 00 40 1 336 85 09*

ARTICLE 5 - NUMBER OF ORIGINALS

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

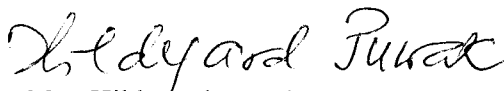
ARTICLE 6 - ENTRY INTO FORCE

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

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

Done at Bucharest
Date *11 December 2002*

for THE RECIPIENT



Mrs. Hildegard Puwak
Minister of European Integration
National Aid Co-ordinator

Done at Bucharest
Date *11 December 2002*

for THE COMMUNITY



Mr. Jonathan Scheele
Head of Delegation of the
European Commission in Romania

Enclosed
Annex 1 Framework Agreement (with its annexes A and B)
Annex 2 Special Provisions
Annex 3 Information and Publicity

ANNEX 2 TO THE FINANCING MEMORANDUM SPECIAL PROVISIONS

1. STRATEGY

1.1. The general objectives of the Bulgarian-Romanian co-operation are:

- To reinforce co-operation and stimulate the integration between the two countries and the European Union and to support the stability and security in the region.
- 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 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 each side of the border and establishment of links between these links and wider Community networks.

3.2. The orientation and the priorities of the Phare cross border programmes between Bulgaria and Romania are detailed in a ***Joint Programming Document (JPD)***, which constitutes the general framework for the co-operation between the two countries. This JPD was agreed between the two countries in early 2000. A ***short summary of this document*** is given below:

I. Characteristics of the border region

The Border region between Bulgaria and Romania consists of 15 NUTS III level regions with an overall population of 5.33 million inhabitants and an overall surface of 69,250 km². The cross-border region is characterised by:

- *A considerable population decline and a corresponding increase in the average population age. The population density is lower than the national averages from both countries and the main reason is that the high death rate is far above the birth rate. Another major factor is the negative migration balance that is mainly due to the poor transport and social infrastructure.*
- *Low activity rate and high unemployment. Several factors contribute to the sustained rise in the unemployment level:*
 - *many workers were laid off due to the rationalisation of industrial production processes*
 - *the labour force low education level*
 - *the lack of new job opportunities.*

The number of unemployed men is higher than the number of unemployed women, which is a growing trend.

- Inefficient transport infrastructure. The cross-border region's main characteristic is that it is separated by the Danube river, a natural border of around 650 km. Till now although that on the land border there are three border crossings, along Danube only one bridge exists in Giugiu-Rousse and three ferryboat lines cross the Danube River. Recently, following a bilateral agreement, a second bridge over the Danube will be built at Vidin-Calafat. This bridge will bring new opportunities for further co-operation between two countries and will promote the socio-economic development of the border region.
- Cross border environmental problems on Danube River and Black Sea. Damages to the environment are one of the main problems, which the border region faces due to the cross border air and water pollution along Danube and Black Sea. The concentration of chemical industries in the region aggravates the air pollution and the rivers that flow into the Black Sea increase the pollution. Especially, in the eastern border Region the ecological balance has been disturbed by the intense development of the tourist sector. Moreover, due to the intensive fishing, the number of fish has decreased considerably in recent years.
- The economic structure is traditionally dominated by agriculture, due to the favourable physical environment (vast plains, good climate, fertile soils). The production specialisation is various and based on the use of the potentials of the territory (cereals, vine and vegetable growing). Highland areas are specialised in forestry.
- The industrial development is the leading function of the large agglomerations, as Rousse, Pleven, Vidin, Veliko Tarnovo and Silistra – on the Bulgarian side, and Craiova, Constanta, Giurgiu and Calarasi – on the Romanian side. The industrial potential of the cross-border region is diversified, from iron and steel to pulp and paper, textile, knitwear and food. Industry's greatest potential includes power generation and transmission, gas and water transmission, chemicals (chemical products and synthetic fibres, rubber and plastics), currently in a deep crisis, followed by metal smelting, casting, and processing, engineering and equipment making, paper and cellulose mills, food industry.

II. Existing Cross-Border Co-operation activities.

The traditionally good, neighbourly, relations between Bulgaria and Romania characterise also the development of certain forms of cross-border co-operation between the regional and local authorities. The prevailing parts of the municipalities on both sides of the border have established contacts. Till now the accomplished common contacts and activities are mainly in the field of:

- transport – building of ferryboat lines;
- trading – regular contacts and activities with the trade and commercial chambers;
- culture – exchange of cultural and sports activities and delegations;
- ecology – implementation of several common projects etc.

However, the potential and interest for co-operation is considerably higher and is not exhausted by the so far accomplishing contacts and activities.

III. Presentation of the identified priorities

For achieving the main goals of cross border co-operation, the border-region sets the following priorities to be concentrated on.

Priority 1 – Improvement of local trans-national infrastructures

The aim is to improve infrastructures: transport infrastructure including border - crossings but also water, gas and electricity supplies, providing benefits across border areas. For the socio-economic development of the regions, it is not only important to modernise and improve existing utilities but also to undertake the groundwork for the introduction of new technologies. This will improve the economic potential of the border area and contribute to international links. Due to their local character, they should be planned and implemented as additional to other actions with an overall character.

Priority 2 – Environmental protection

The regions and municipalities on both sides of the border are well endowed with natural assets (Danube River, Black Sea) 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 rehabilitate the environment have been awarded a high priority for the Phare CBC programmes between Bulgaria and Romania. A considerable potential for joint projects exists in the protection for the natural resources of the areas in particular in the Danube River. Both countries consider of major importance first the air pollution and secondly to waste water, soil reinforcement and erosion protection along the Danube River Basin.

Priority 3 – Alleviation of the administrative and institutional obstacles to the free flow of persons, products or services across the border.

These actions aim at alleviating the administrative and institutional obstacles to the free flow of persons, products or services across the border while taking into account the security aspects of such flows and to promote actions related to justice and home affairs Community policy. Due to the major significance of these issues for the Pre-Accession period for both countries, they consider these actions of major importance and particularly for the standardisation of Border Police, Customs, Veterinary and Phyto-sanitary control procedures leading to a joint single and integrated control between similar administrations of both countries.

Priority 4 – Economic Development.

The loss of traditional markets and the lack of imported raw materials have heavily affected almost all major industries. Many enterprises at these regions are operating at a loss unable to find new markets because of lack of competitive advantages. Specific measures are needed to improve economic development in the border regions and to overcome high unemployment, lack of employment opportunities, shortage of training facilities and under-development in the SME sector. To that end, it is expected to promote business co-operation, enterprise development, financial co-operation and co-operation between institutions representing the business sector. Co-operation in the fields of health, cultural exchanges, local employment, education and training initiatives are also envisaged. To that end, a Joint Small Project Fund should be established.

3.3. A breakdown of the Phare CBC 2002 BG/RO allocation per priority of the JPD is given below:

Priority 1 – Improvement of local trans-national infrastructures:

68,75%

Priority 2 – Environmental protection:

21,25%

Priority 3 – Alleviation of the administrative and institutional obstacles 00.0 %

Priority 4 – Economic Development: 6,25%

Priority 5 - Others – Technical Assistance for Project Preparation Facility 3,75%

1.4. The projects that will be financed under the Phare CBC Programme 2002 fully comply with Council Regulation 1266/1999 on Co-ordination of pre-accession assistance. A close co-ordination has been ensured with the authorities responsible for ISPA and SAPARD in order to avoid any overlap.

1.5. The projects also comply with the minimum size of 2 MEUR, with the exception of the projects: 2002/000-625-03 and 2002/000-623-03 “Development of a control system for air emissions from traffic and stationary sources in the boundary Bulgarian – Romanian region” (**1.9 MEUR in Romania and 1.5 Meur in Bulgaria**), 2002/000-625-05 and 2002/000-623-05: “Project Preparation Facility” (**0.3 MEUR** for each country) and with the exception of the Joint Small Project Funds (2002/000-625-04 and 2002/000-623-04), which are limited to 10% of the total Phare allocation by rules.

2. OBJECTIVES, DESCRIPTION AND CONDITIONALITY

2.1. 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.

2.2. 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 2002/000-623-01 “Checkpoint and Cross Border by ferryboat at Turnu Magurele (Romania) – Nikopol (Bulgaria)” and . 2002/000-625-01 “Cross Border Check Point and ferryboat at Turnu Magurele (Romania) – Nikopol (Bulgaria)” and through the improvement of an access road to the border: projects 2002/000-623-02 “Rehabilitation and partial reconstruction of road II-15, section Mizia–Orahovo Bulgaria/Romania Border Crossing” and 2002/000-625-02 “Rehabilitation of National Road NR 3B, between the crossroad with NR 3 and Calarasi, from km 0+000 to km 3+020” .

- To promote the environmental protection by development of a system for controlling the air pollution in the border region between both countries in order to allow them to elaborate programmes for air quality evaluation, control and reduction of the air pollution, improvement of air quality, including compliance with the requirements of EU legislation: projects .03 “Development of a control system for air emissions from traffic and stationary sources in the boundary Bulgarian – Romanian region” and 2002/000-623-03 “Development of a control (monitoring) system for emission of VOC, PAH and Heavy Metals from stationary source in the boundary Bulgarian – Romanian regions along the Lower Danube”.
- To promote the socio-economic regional development in the CBC region through the continuation of a Joint Small Projects Fund: projects 2002/000-623-04 and 2002/000-625-04
- To provide technical assistance through Project Preparation Facility: projects 2002/000-623-05 and 2002/000-625-05

2.3. 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 2002 Programme were approved during the Joint Co-operation (JCC) meeting held on 21st May, 2002, at Rousse/Bulgaria 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 2002 are mirror projects.

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

The Danube River forms a natural border between Bulgaria and Romania and has been an obstacle for extensive trade 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 2002/000-623-01 Checkpoint and Cross Border Check Point and ferryboat at Turnu Magurele (Romania) – Nikopol (Bulgaria)

Project 2002/000-625-01 – Checkpoint and Cross Border by ferryboat at Turnu Magurele (Romania) – Nikopol (Bulgaria)

The proposed projects consist of the construction of a new border crossing point at Turnu Magurele (Romania) and Nikopol (Bulgaria) and the purchasing of two new ferryboats to cross the Danube. These two mirror projects aim at improving the Cross-Border co-operation between Bulgaria and Romania through the creation of a new border crossing point. They will also facilitate passing through the border-crossing of travellers and vehicles by reducing waiting time and by streamlining customs and border police control 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:

- Technical Assistance for preparation of the tender documents will be provided by a specialised company contracted according to the Phare rules and will include: the detailed design and engineering for the construction of the checkpoint, tender dossier including technical specifications for the equipment procurement and the draft of the terms of reference for the works supervision. The consultant will prepare the documentation with the assistance of the beneficiaries: Municipality/ies of Oriahovo/Mizia, in close co-ordination with the Romanian authorities. This component will be realised under a Framework Contract and will be financed by Phare
- The construction of the border-crossing checkpoint will be provided by a specialised company contracted according to the Phare rules and will include: the construction of infrastructures utilities as water supply, energy supply, heating supply systems, sewage networks, telecommunication networks, the construction of all necessary buildings related to the border-crossing specific activities and the short facilities as construction of loading-unloading platforms for vehicles, enforcement/rehabilitation of the banks, internal roads networks parking areas, warehouses. This component will be realised under a Phare works contract and will be funded by Phare allocation
- The works supervision will be provided by a specialised company contracted according to the Phare rules under a Framework Contract and will be funded by Phare allocation
- The procurement of necessary equipment will be delivered by a specialised company contracted according to the Phare rules and will include the acquisition of equipment for infrastructure utilities as: energy networks, heating systems, water networks, sewerage networks and telecommunication. This component will be realised under a Phare supply contract and will be funded by Phare allocation.
- Supply of transport equipment: it is foreseen that the Bulgarian authorities (Ministry of Transport and Communications and/or other local/central authorities) will procure one transport ship (ferryboat) as co-financing to the project

Bulgarian beneficiary:	Ministry of Regional Development and Public Works
Total cost of the project:	4.45 MEUR
Phare allocation:	3.20 MEUR
Co-financing:	1.25 MEUR (state budget)

Due to the complex co-ordination that is needed during the implementation of the mirror projects (within each country and between Romania and Bulgaria) and complex phasing of the works, it is expected that the work contracts will have duration of around 28 months. Therefore, the expiry date for disbursement for both projects will be 30 November 2006.

On the **Romanian side**, the foreseen activities are:

- Technical Assistance for preparation of the tender documents will be provided by a specialised company contracted according to the Phare rules and will include: the detailed design and engineering for the construction of the checkpoint, tender dossier including technical specifications for the equipment procurement and the draft of the terms of reference for the works supervision. The consultant will prepare the documentation with the assistance of the beneficiaries: Teleorman County Council and Turnu Magurele Local Council, in close co-ordination with the Bulgarian authorities.

This component will be realised under a Framework Contract and will be financed by Phare allocation.

- The construction of the border-crossing checkpoint will be provided by a specialised company contracted according to the Phare rules and will include: the construction of infrastructures utilities as water supply, energy supply, heating supply systems, sewage networks, telecommunication networks, the construction of all necessary buildings related to the border-crossing specific activities and the short facilities as construction of loading-unloading platforms for vehicles, enforcement/rehabilitation of the banks, internal roads networks parking areas, warehouses. This component will be realised under a Phare works contract and will be funded by Phare allocation.
- The works supervision will be provided by a specialised company contracted according to the Phare rules under a Framework Contract and will be funded by Phare allocation.
- The procurement of necessary equipment will be delivered by a specialised company contracted according to the Phare rules and will include the acquisition of equipment for infrastructure utilities as: energy networks, heating systems, water networks, sewerage networks and telecommunication. This component will be realised under a Phare supply contract and will be funded by Phare allocation.
- The procurement of a transport ship to cross the Danube and the transport equipment will be assured by the Romanian beneficiaries (Teleorman County Council and Turnu Magurele Local Council) as co-financing to the project.

Romanian beneficiary:	Teleorman County Council, Turnu Magurele Local Council
Total cost of the project:	4.50 MEUR
Phare allocation:	3.30 MEUR
Co-financing:	1.20 MEUR (0.72 MEUR from Teleorman County Council and 0.48 MEUR from Turnu Magurele Local Council)

Due to the complex co-ordination that is needed during the implementation of the mirror projects (within each country and between Romania and Bulgaria) and complex phasing of the works, it is expected that the work contracts will have duration of around 28 months. Therefore, the expiry date for disbursement for both projects will be 30 November 2006.

Bilateral joint technical meetings with Bulgarian counterparts will be organised, during the project duration, in order to allow the differences occurred (if any), to exchange information and data and to assure the proper implementation of the project.

Project 2002/000-625-02 –Rehabilitation of National Road NR 3B, between the crossroad with NR3 and Calarasi, from km 0+000 to km 3+020

The realisation of the project will improve and increase cross-border traffic between Romania and Bulgaria. For opening the Calarasi/Silistra border-crossing point to international traffic it is necessary to provide better conditions for transit traffic. The proposed project rehabilitates the access road to Ostrov border-crossing point.

The actual road has a platform width of 10 m, with shoulders of 1 m and carriageway width of 8 m from concrete. This road will be classified as an open road for the international traffic, being an extension towards the border with Bulgaria (Silistra) and National Road NR 3. Unfortunately, the actual road does not comply with EU standards to be classified as an open road for the international traffic.

The road starts from crossroad of NR3 with NR3B, which is the limit of the project PHARE CBC Romania Bulgaria 2001 - "Border crossing between Calarasi (Romania) and Silistra (Bulgaria) for travellers and goods international traffic" up to the Calarasi city. Calarasi city is the limit of the project financed under Economic and Social Cohesion PHARE 2000 Programme "Improvement the access to the IV Pan European Corridor – Rehabilitation of NR 21 between Drajna and Calarasi, from km 107+500 to km129+602".

The envisaged activities are:

- Technical Assistance for preparation of the tender documentation, including planning and engineering design will be provided by Ministry of Public Works, Transport and Housing through the National Administration of Roads (NAR), which will co-finance the project. Based on the detailed design and according to the Phare requirements and procedures, the NAR will prepare the tender dossier, meaning technical specifications and terms of reference for the components: Road construction, Bridge Works and Supervision of Works.
- The construction works of the road will be provided by a specialised company contracted according to the Phare rules and will include the rehabilitation of the road according to EU standards. The sector of the NR 3B comprised between km 0+000 and km 0+480 (the beginning of the bridge) will be rehabilitated according to the technical norms approved by Ministry of Transport Order no. 45/1998, meaning: the platform width of 17.00m, the carriage way width of 14,00m each with shoulders of 1,50m width. This works will comprise also the arrangement of the junction between NR 3 and NR 3B, according to the Romanian and EU standards. These activities will be realised under a works contract and will be funded by Phare allocation.
- Bridge works component will be provided by a specialised company contracted according to the Phare rules and will have as result the bridge designed for the E loading class and the carriageway width will be of 14.00m framed by unlevelled walkways of 1,00m width out of localities. This activity will be realised under a works contract and will be funded by Phare allocation.
- Supervision of works. The National Administration of Roads will provide the Terms of References for the supervision of works. A consultant will be contracted for supervision of works, in order to ensure the compliance with the EU and national requirements. This component will be realised under a Framework Contract and will be funded by Phare allocation.
- Publicity – this component will be financed by the Ministry of Public Works, Transport and Housing through the National Administration of Roads, as co-financing to the project.

Romanian beneficiary:	Ministry of Public Works, Transport and Housing through the National Administration of Roads (NAR)
Total cost of the project:	3.05 MEUR
Phare allocation:	2.00 MEUR
Co-financing:	1.05 MEUR (NAR)

Due to the defect liability period and the duration of the works, this investment project will require a 2 years disbursement period, till November 2006.

2002/000-623-02 - Rehabilitation and partial reconstruction of road II-15, section Mizia–Orahovo (Bulgaria/Romania Border Crossing)

The realisation of the project will improve and increase cross-border traffic between Romania and Bulgaria. For opening the Calarasi/Silistra border-crossing point to international traffic it is necessary to provide better conditions for transit traffic. The proposed project rehabilitates the access road to Ostrov border-crossing point.

This project is in line with the priorities that are indicated in the general framework for the co-operation between the two countries and was agreed between the Romanian and Bulgarian authorities. Under the priority 1 “Improvement of local trans-national infrastructure”, one of the proposed measures is *“the rehabilitation of the communication infrastructures in the CBC region, including the rehabilitation of the roads network”*.

The pavement of road II-15 from Mizia to the Bulgaria/Romania border (Orahovo) is in relatively bad condition and has low road operational characteristics. The section has good horizontal and vertical parameters but is not quite homogeneous in the certain sections. The road width is extremely variable and in its greater parts, outside of the populated areas, it is 6/ 8 m including a shoulder 1,50 m (1,25 m), asphalt pavement – 6 to 6,20 m from the part of the narrow-gauge line and from the part of the slope at about 3 m the so called “earth trench” including the shoulder. The slope has clear slide processes and spread with shrubs.

The proposed project consists in rehabilitation and improvement of approximately **16 km** of road II-15 (from km 61+300 to km 77+872,36). The majority of road rehabilitation involves the strengthening of the existing pavement by means of asphalt overlays of varying thickness depending upon the condition of the pavement structure. The road rehabilitation also includes surface water drainage works, shoulder surface upgrading, road markings, the replacement, refurbishment or provision of new traffic signs, guard-rails and kerbs.

On the **Bulgarian side**, the foreseen activities are:

Construction Supervision Services – The Roads Executive Agency (REA) will undertake the preparation of the Tender Dossier for the Service Contract and tendering procedure. No additional funding required.

This contract shall be awarded according to the “Practical Guide to Phare, Ispa and Sapard contract procedures” through restricted tender procedure. Estimated budget: 0.300 MEUR.

Construction Works - REA will undertake the preparation of the Tender Dossier for the Works Contract and tendering procedure. No additional funding required. The Works consists of rehabilitation of **16 km** section of an existing road. The rehabilitated section shall comply with the EU standards - increasing in pavement structure load-bearing capacity in compliance with Council Directive 96/53/EC of 25 July 1996 concerning the maximum size and weight of vehicles. The contract shall be awarded under FIDIC conditions through an open tender

Supervision of works - REA will provide the Terms of References for the supervision of works. A consultant will be contracted for supervision of works, in order to ensure the compliance with the EU and national requirements. This component will be realised under a Framework Contract and will be funded by Phare allocation.

Publicity - This component will be financed by the Ministry of Regional Development and Public Works through the Roads Executive Agency, as co-financing to the project.

Bulgarian beneficiary:	Ministry of Regional Development and Public Works through the Roads Executive Agency (REA)
Total cost of the project:	3.334 MEUR
Phare allocation:	2.500 MEUR
Co-financing:	0.834 MEUR (REA)

Due to the defect liability period and the duration of the works, this investment project will require a 2 years disbursement period, till March 2006.

2.3.2. 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 has 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.

2002/000-623-03 *Development of a Control (Monitoring) System for Emissions of VOC, PAH and Heavy Metals from stationary sources in the Boundary Bulgarian-Romanian regions along the Lower Danube*

2002/000-625-03 *Development of a control system for air emissions from traffic and stationary sources in the boundary Bulgarian-Romanian region*

These mirror projects will contribute to the improvement of the co-operation between both countries in terms of reducing the air pollution and conformity with the requirements of the EU Legislation, will improve and foster the co-operation of the border regions of both countries and thus to help the border 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 population and in a manner compatible with the protection of the environment.

The aim of the project is to develop a System for controlling the air pollution in the border region between both countries, in order to allow them to conform with the requirements of the following EU legislation: Framework Directive 96/62/EC on ambient air assessment and management, Directive 88/609/EC amended by 94/66/EC on pollution discharged from large combustion plants, Directive 94/63/EC on the control of VOC emissions, IPPC Directive 96/61/EC, Directive 99/13/EC on the control of VOCs due to the use of organic solvents in certain activities and installations, as well as other related EC legislation.

This system will provide information and specific data in order to solve the disputes that may arise between both countries concerning the origin of the pollutants. Based on these data and information received in the form of daily, quarterly and annual reports, the Romanian and Bulgarian Environmental Inspectorates (*Dolj, Olt, Teleorman, Giurgiu, Calarasi* – Romanian side and the corresponding ones on the Bulgarian side), Municipalities and both Ministries of Environment will elaborate programmes for air quality evaluation, control and reduction of the air pollution from sources based on specific dispersion of the pollutants on the both Danube borders, in order to improve the air quality.

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

- Procurement of the necessary equipment for the Romanian Environmental Protection Inspectorates (*Dolj, Olt, Teleorman, Giurgiu, Calarasi*) in order to be able to control the air emissions from all stationary and traffic sources located on the region from Romanian – Bulgarian boundary. Moreover, the equipment will be used for the control of air quality. The tender dossier, including the technical specifications, for the equipment procurement will be provided by the technical assistance through a FWC, contracted under the BG0107.04.01 project - “Preparation of Future Environmental Projects”. The equipment will be procured under a supply contract, concluded following the Phare procedures for international open tender. The supplier will provide appropriate training for the staff in charge of the use of these equipment. This component will be realised under a supply contract and will be financed by Phare allocation and national co-financing covered by the Ministry of Waters and Environmental Protection.
- Elaboration of a study as regard to the location of the DOASs (Differential Optical Analysis System) for measuring traffic emissions. The location of DOAS systems will have to be established, in order to measure the highest effect of pollutant emissions from traffic. Thus, a specialised environmental research institute will be contracted, under this component, to perform this study in the project area. Additionally, bilateral joint meetings with Bulgarian counterparts will be organised in order to allow the differences occurred, to exchange information and data and to assure the proper implementation of the project. This component will be funded by the Ministry of Waters and Environmental Protection as the project co-financing.

Romanian beneficiary:	Ministry of Waters and Environmental Protection, through its Environmental Protection Inspectorates in Dolj, Olt, Teleorman, Giurgiu and Calarasi counties.
Total cost of the project:	2.53 MEUR
Phare allocation:	1.90 MEUR
Co-financing:	0.63MEUR (Ministry of Waters and Environmental Protection)

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

- Procurement of the necessary equipment for the Bulgarian Regional Environment and Water Inspectorates (Montana, Vratsa, Plevna, Veliko-Tornovo and Russe) in order to be able to control the air emissions from all stationary and traffic sources located on the region from Romanian – Bulgarian boundary. Moreover, the equipment will be used for the control of air quality. The tender dossier, including the technical specifications, for the equipment procurement will be provided by the technical assistance through a FWC, contracted under the BG0107.04.01 project - “Preparation of Future Environmental Projects”. The equipment will be procured under a supply contract, concluded following the Phare procedures for international open tender. The supplier will provide appropriate training for the staff uncharged with the using of these equipment. This component will be realised under a supply contract and will be financed by Phare allocation and national co-financing covered by the Ministry of Environment and Water.
- Elaboration of a study as regards the location of the DOASs (Differential Optical Analysis System) for measuring traffic emissions. The location of DOAS systems will have to be established, in order to measure the highest effect of pollutant emissions from traffic. Thus, a specialised environmental research institute will be contracted, under this component, to perform this study in the project area. Additionally, bilateral joint meetings with Bulgarian counterparts will be

organised in order to allow the differences occurred, to exchange information and data and to assure the proper implementation of the project. This component will be funded by the Ministry of Environment and Water.

Bulgarian beneficiary:	Ministry of Environment and Water
Total cost of the project:	2.0 MEUR
Phare allocation:	1.5 MEUR
Co-financing:	0.5 MEUR (state budget)

2.3.3. 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. Those small projects should contribute to a sustainable model of development, including environmental, economic and social aspects of sustainability.

Projects 2002/000-623-04 and 2002/000-625-04 - 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 referring to: business co-operation, enterprise development, technology transfer and marketing for small and medium size enterprises, training, employment, measures for health and cultural exchanges, improvement of information flow and communications between border regions etc. in order to reach a sufficient impact, this schemes need to be implemented in a multi-annual perspective. It is therefore proposed to continue this initiative.

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.

The key institutions of the JSPF are the Bulgarian and Romanian Implementing Agencies (Ministry of Regional Development and Public Works/Ministry of Development and Prognosis) which will issue a call for proposals that must be open and fair to all eligible organisations, the Joint Co-operation Committee (JCC), the Joint Evaluation Committee (JEC), the Secretariats (CBC Regional Offices for JSPF) and the Team of Assessors for the assessment of project applications. The final decisions are taken on the basis of the recommendations of the JEC.

The Romanian Secretariat was set up in the border region, at Giurgiu, in order to ensure the day-by-day contact and co-operation with the project beneficiaries. This office has specific tasks as set up in the Guidelines for the JSPF.

The Bulgarian Secretariat was set up in the border region, at Ruse, in order to ensure the day-by-day contact and co-operation with the project beneficiaries. This office has specific tasks as set up in the Guidelines for the JSPF.

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 JSPF is designed to make available a total Phare contribution of 800,000 EUR/border region (up to 10% of the total Phare funds available/country for the programme). According to the JCC decision, this year it was made available a Phare contribution of 500,000 EUR/border region. Up to 7% of this 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)

2.3.4. JPD priority: Others - Technical assistance

Projects 2002/000-623-05 and 2002/000-625-05 - Project Preparation Facility (mirror projects)

The Project Preparation Facility (PPF) will support the preparation of projects within the future Phare CBC programmes and as a consequence, it will promote the key objectives of the Phare CBC Programme between Romania and Bulgaria. Special attention will be given to the preparation of joint projects and to projects with a strong cross-border co-operation character which will be planned in close co-operation with the regional and local authorities in the border areas.

On the ***Romanian side***, this project aims to:

- Strengthening the capacity of the CBC IA within the Ministry of Development and Prognosis to prepare adequate programmes and projects in the context of Phare Cross Border Co-operation Programme between Romania and Bulgaria, with a view of financial support under future Phare CBC programmes;
- Support the relevant authorities to prepare a pipeline of mature projects that will be proposed for the future Phare CBC programmes in the field of
 - ✓ Infrastructure and environment
 - ✓ Economic and social cohesion
 - ✓ Alleviation of the administrative and institutional obstacle to the free movement of person, products and services across the borders.

The activities foreseen under this project are:

- Establishment of a Project Preparation Facility that will provide short-term technical assistance, during two calendar years, in order to support the Phare CBC IA within the Ministry of Development and Prognosis on preparation of the Phare CBC Bulgaria - Romania programmes. This assistance is referring to all the activities related to the Phare CBC projects life cycle (identification, programming, contracting, implementation, etc), including revision of the JSPF documents.
- The Romanian authorities involved in the programming phases will be supported with short-term expertise in order to produce relevant background documentation, feasibility studies, project technical designs, terms of references, technical specifications and tender dossiers etc.

Romanian beneficiary: Ministry of Development and Prognosis through Cross-Border Co-operation Directorate

On the **Bulgarian side**, this project aims to:

- Strengthening the capacity of the CBC IA within the Ministry of Regional Development and Public Works to prepare adequate programmes and projects in the context of Phare Cross Border Co-operation Programme between Romania and Bulgaria, with a view of financial support under future Phare CBC programmes;
- Support the relevant authorities to prepare a pipeline of mature projects that will be proposed for the future Phare CBC programmes in the field of
 - ✓ Infrastructure and environment
 - ✓ Economic and social cohesion
 - ✓ Alleviation of the administrative and institutional obstacle to the free movement of person, products and services across the border.

The activities foreseen under this project are:

- Establishment of a Project Preparation Facility that will provide short-term technical assistance, during two calendar years, in order to support the Phare CBC IA within the Ministry of Regional Development and Public Works on preparation of the Phare CBC Bulgaria - Romania programmes. This assistance is referring to all the activities related to the Phare CBC projects life cycle (identification, programming, contracting, implementation, etc), including revision of the JSPF documents.
- The Bulgarian authorities involved in the programming phases will be supported with short-term expertise in order to produce relevant background documentation, feasibility studies, project technical designs, terms of references, technical specifications and tender dossiers etc.

Bulgarian beneficiary: Ministry of Regional Development and Public Works

Total project cost: **0.6 MEUR** (0.3 MEUR for each country)

Phare allocation: **0.6 MEUR** (0.3 MEUR for each country)

2.4. 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. 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 EC Delegations.

3. BUDGET

Project code	Priority / Project Title	PHARE			National Co-financing in M€	Total in M€	CRI S/D AC Code
		IB	Investment	TOTAL			
	JPD priority: Improvement of local and Trans-national infrastructures	0.8	10.2	11.0	4.334	15.334	
2002/000-625-01	Cross Border Checkpoint and ferryboat at Turnu Magurele (Romania) – Nikopol (Bulgaria)	0.3	3.0	3.3	1.2	4.5	21010
2002/000-623-01	Cross Border Checkpoint and ferryboat at Turnu Magurele (Romania) – Nikopol (Bulgaria)	0.5	2.7	3.2	1.25	4.45	21010
2002/000-625-02	Rehabilitation of National Road NR 3B, between the crossroad with NR3 and Calarasi, from km 0+000 to km 3+020	0	2.0	2.0	1.05	3.05	21020
2002/000-623-02	Rehabilitation and partial reconstruction of road II-15, section Mizia–Oriahovo (Bulgaria/Romania Border Crossing)	0	2.5	2.5	0.834	3.334	21020
	JPD priority: Environmental Protection	0.2	3.2	3.4	1.13	4.53	
2002/000-625-03	Development of a control system for air emissions from traffic and stationary sources in the boundary Bulgarian-Romanian region	0	1.9	1.9	0.63	2.53	41020
2002/000-623-03	Development of a Control (Monitoring) System for Emissions of VOC, PAH and Heavy Metals from stationary sources in the Boundary Bulgarian-Romanian regions along the Lower Danube	0.2	1.3	1.5	0.5	2.0	41020
	JPD priority: Socio-economic Development	0.07	0.93	1.0	0.1	1.1	
2002/000-625-04	Joint Small Project Fund	0.035	0.465	0.50	0.05	0.55	43020
2002/000-623-04	Joint Small Project Fund	0.035	0.465	0.50	0.05	0.55	43020
	JPD priority: Technical Assistance	0.6	0	0.6	0	0.6	
2002/000-625-05	Project Preparation Facility	0.3	0	0.3	0	0.3	53010

2002/000-623-05	Project Preparation Facility	0.3	0	0.3	0	0.3	5301 0
	SUB-TOTAL ROMANIA	0.635	7.365	8.00	2.93	10.93	
	SUB-TOTAL BULGARIA	1.035	6.965	8.00	2.634	10.63 4	
TOTAL		1.670	14.330	16.00	5.564	21.56 4	

There is no IFI co-financing in this programme.

4. IMPLEMENTATION ARRANGEMENTS

4.1. Implementation arrangements in Bulgaria

a.) Financial and Project Management by the Candidate Country

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 Authorising Officer (NAO) and the Project Authorising Officers (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the DIS Manual and other instructions of the Commission, and that all contracts are being prepared in accordance with the Practical Guide for PHARE, ISPA and SAPARD².

The NAC and the NAO 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 NAO, will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. The NAO 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 reporting and project information system is functioning. This includes the responsibility of reporting all suspected and actual cases of fraud and irregularity. The NAO shall have the full overall accountability for the PHARE funds of a programme until the closure of the programme.

b.) Project size

All projects will be greater than 2 M€, except those in the following areas:

a) Environment for the project for the development of a Control (Monitoring) System for Emissions of VOC, PAH and Heavy Metals from stationary sources in the Boundary Bulgarian-Romanian regions along the Lower Danube

b) Joint Small Project Fund

c) Project Preparation Facility

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

² The Practical Guide has replaced section F ("Procurement") of the DIS Manual

where the Bulgarian Ministries concerned have limited absorptive capacity and cannot utilise as much as 2M€.

c.) Contracting and disbursement deadline

All contracts must be concluded by 30 November 2004. All disbursements must be made by 30 November 2005.

In the case of the following projects, however, disbursements must be made by 30 November 2006. Justification is provided in the project fiches:

2002/000-623-01	Check Point and Cross Border by ferryboat Turnu Magurele (Romania) – Nikopol (Bulgaria)
2002/000-623-02	Rehabilitation and partial reconstruction of road II-15, section Mizia–Oriahovo (Bulgaria/Romania Border Crossing)

These extensions of disbursement period are needed to take into account the duration of works (impossibility to work in winter during several months) and the Defect Liability Period of one year after the completion of works.

d.) Recovery of Funds

Any proven irregularity or fraud discovered at any time during the implementation of the programme will lead to the recovery of funds by the Commission.

If the implementation of a measure appears not to justify either a part or the whole of the assistance allocated, the Commission is to conduct an appropriate examination of the case, in particular requesting the beneficiary country to submit its comments within a specified period of time and to correct any irregularity.

Following the examination referred to in the previous paragraph, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals irregularity, an improper combination of funds or a failure to comply with one of the conditions in the financing memorandum and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission's approval has not been sought. Any reduction or cancellation of the assistance is to give rise to recovery of the sums paid.

Where the Commission considers that an irregularity has not been corrected or that all or part of an operation does not justify either all or part of the assistance granted to it, the Commission is to conduct a suitable examination of the case and request the beneficiary country to submit its comments within a specified period. After the examination, if the beneficiary country has undertaken no corrective measures, the Commission may:

- (a) reduce or cancel any advance;
- (b) cancel all or part of the assistance granted to the measure.

The Commission is to determine the size of a correction taking into account the nature of the irregularity and the extent of any failures in the management and control systems.

Any funds not used by the expiry date of the programme will be recovered by the Commission. A final written declaration with supporting documentation shall be issued by the NAO just after the end of the disbursement period of the Financing Memorandum

showing the total amount contracted and disbursed. A final bank reconciliation showing the existing balances in the NF/IA/CFCU shall also be enclosed.

Notwithstanding the recovery of unused and ineligible funds after expiry of the Financing Memorandum, a complementary recovery order may be issued after the final audit of the reliability and consistency of contracts and disbursements as well as their compliance with the provisions of the Financing Memorandum has been carried out, taking into account the independent opinion of the final audit.

The National Authorising Officer will ensure the reimbursement of any unused funds or any sum wrongly paid within sixty calendar days of the date of notification. If the NAO does not repay the amount due to the Community, the beneficiary country shall refund this amount to the Commission. Interest on account of late payments shall be charged on sums not repaid by applying the rules specified in the Financial Regulation governing the Community Budget.

e.) Financial Flows

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Government of Bulgaria in December 1998. Funds will be transferred following requests from the NAO onto a separate bank account, denominated in €, which will be opened and managed by the NF in a Bank agreed in advance with the Commission.

aa) Transfer of Funds to the National Fund

A payment of up to 20% of the funds to be managed locally³ 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.

Two replenishments will be made of up to 30 % of the funds to be managed locally* and the final payment of up to 20% or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 5% of the budget* has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 35% of the total budget* in force has been disbursed. The final third replenishment will be paid when 70% of the total budget* in force is disbursed. Exceptionally the NAO may request an advance payment of more than the percentages mentioned above in accordance with the procedures laid down in the aforesaid Memorandum of Understanding. Save for express prior authorisation from the Commission HQs, no replenishment may be made if the trigger points mentioned above have not been respected.

bb.) Transfer of Funds to the Implementing Agencies

The National Fund will transfer funds to IAs, including the Central Financing and Contracting Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NFs and the IAs/CFCU where applicable. Bank accounts for sub-programmes shall be opened in the name of the relevant Implementing Agency/CFCU in

³ excluding the amount foreseen for the Community programmes

charge of the financial administration of the sub-programme in line with Art. 13 of the MoU on the establishment of the National Fund.

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.

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.

cc) Interest

In principle, all bank accounts⁴ 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.

f.) Implementing Agencies will be responsible for sub-programmes as follows:

The Implementing Agency of the CBC Phare programme of the Ministry of Regional Development and Public Works on the Bulgarian side will be responsible for all programmes and sub-programmes.

g.) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive⁵ are fully applicable for all investment projects under PHARE. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive. If a project would fall within the scope of annex I or annex II of the EIA Directive, the carrying out of the EIA-procedure must be documented⁶.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive⁷ must be documented⁸.

* excluding the amount foreseen for the Community programmes

⁴ in particular, but not exclusively, accounts run by the NF, the CFCU and IAs

⁵ DIR 85/337/EEC; OJ L 175/40; 5.7.1985; as amended by DIR 97/11/EEC; OJ L 73/5; 14.3.1997

⁶ in **Annex EIA** to the corresponding investment project fiche

⁷ DIR 92/43/EEC; OJ 206/7; 22.7.1992

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.

h.) Special rules for certain components for the programme

The Joint Small Projects Fund will not include physical investments other than small infrastructure not generating substantial net revenue.

For the CBC Joint Small Project Fund, up to 7% of the PHARE contribution may be used for expenditure relating to the preparation, selection, appraisal and monitoring of the assistance.

4.2. Implementation arrangements in Romania

a.) Financial and Project Management by the Candidate Country

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures⁹.

The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes. The National Authorising Officer (NAO) and the Project Authorising Officers (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the DIS Manual and other instructions of the Commission, and that all contracts are being prepared in accordance with the Practical Guide for PHARE, ISPA and SAPARD¹⁰.

The NAC and the NAO 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 NAO, will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. The NAO 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 reporting and project information system is functioning. This includes the responsibility of reporting all suspected and actual cases of fraud and irregularity. The NAO shall have the full overall accountability for the PHARE funds of a programme until the closure of the programme.

b.) Project size

All projects will be greater than 2 M€, except those in the following areas:

a) Environment for the project for the development of a Control (Monitoring) System for Emissions of VOC, PAH and Heavy Metals from stationary sources in the Boundary Bulgarian-Romanian regions along the Lower Danube

⁸ in **Annex Nature Conservation** to the corresponding investment project fiche

⁹ taking into consideration the rules set down in the annex of Council Regulation 1266/1999

¹⁰ The Practical Guide has replaced section F ("Procurement") of the DIS Manual

b) Joint Small Project Fund

c) Project Preparation Facility

Where the Romanian Ministries concerned has limited absorptive capacity and cannot utilise as much as 2M€.

c.) Contracting and disbursement deadline

All contracts must be concluded by 30 November 2004. All disbursements must be made by 30 November 2005.

In the cases of the following projects, however, disbursements must be made by 30 November 2006. Justification is provided in the project fiches:

2002/000-625-01 Check Point and Cross Border by ferryboat Turnu Magurele (Romania) – Nikopol (Bulgaria)

2002/000-625-02 Rehabilitation of National Road NR 3B, between the crossroad with NR 3 and Calarasi, from km 0+000 to km 3+020

These extensions of disbursement period are needed to take into account the duration of works (impossibility to work in winter during several months) and the Defect Liability Period of one year after the completion of works.

d.) Recovery of Funds

Any proven irregularity or fraud discovered at any time during the implementation of the programme will lead to the recovery of funds by the Commission.

If the implementation of a measure appears not to justify either a part or the whole of the assistance allocated, the Commission is to conduct an appropriate examination of the case, in particular requesting the beneficiary country to submit its comments within a specified period of time and to correct any irregularity.

Following the examination referred to in the previous paragraph, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals irregularity, an improper combination of funds or a failure to comply with one of the conditions in the financing memorandum and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission's approval has not been sought. Any reduction or cancellation of the assistance is to give rise to recovery of the sums paid.

Where the Commission considers that an irregularity has not been corrected or that all or part of an operation does not justify either all or part of the assistance granted to it, the Commission is to conduct a suitable examination of the case and request the beneficiary country to submit its comments within a specified period. After the examination, if the beneficiary country has undertaken no corrective measures, the Commission may:

- (a) reduce or cancel any advance;
- (b) cancel all or part of the assistance granted to the measure.

The Commission is to determine the size of a correction taking into account the nature of the irregularity and the extent of any failures in the management and control systems.

Any funds not used by the expiry date of the programme will be recovered by the Commission. A final written declaration with supporting documentation shall be issued by the NAO just after the end of the disbursement period of the Financing Memorandum showing the total amount contracted and disbursed. A final bank reconciliation showing the existing balances in the NF/IA/CFCU shall also be enclosed.

Notwithstanding the recovery of unused and ineligible funds after expiry of the Financing Memorandum, a complementary recovery order may be issued after the final audit of the reliability and consistency of contracts and disbursements as well as their compliance with the provisions of the Financing Memorandum has been carried out, taking into account the independent opinion of the final audit.

The National Authorising Officer will ensure the reimbursement of any unused funds or any sum wrongly paid within sixty calendar days of the date of notification. If the NAO does not repay the amount due to the Community, the beneficiary country shall refund this amount to the Commission. Interest on account of late payments shall be charged on sums not repaid by applying the rules specified in the Financial Regulation governing the Community Budget.

e.) Financial Flows

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Government of Romania in 20 October 1998. Funds will be transferred following requests from the NAO onto a separate bank account, denominated in €, which will be opened and managed by the NF in a Bank agreed in advance with the Commission.

aa) Transfer of Funds to the National Fund

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.

Two replenishments will be made of up to 30 % of the funds to be managed locally* and the final payment of up to 20% or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 5% of the budget* has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 35% of the total budget* in force has been disbursed. The final third replenishment will be paid when 70% of the total budget* in force is disbursed. Exceptionally the NAO may request an advance payment of more than the percentages mentioned above in accordance with the procedures laid down in the aforesaid Memorandum of Understanding. Save for express prior authorisation from the Commission HQs, no replenishment may be made if the trigger points mentioned above have not been respected.

* excluding the amount foreseen for the Community programmes

bb.) Transfer of Funds to the Implementing Agencies

The National Fund will transfer funds to IAs, including the Central Financing and Contracting Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NFs and the IAs/CFCU where applicable. Bank accounts for sub-programmes shall be opened in the name of the relevant Implementing Agency/CFCU in charge of the financial administration of the sub-programme in line with Art. 13 of the MoU on the establishment of the National Fund.

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.

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.

cc) Interest

In principle, all bank accounts¹¹ 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.

f.) Implementing Agencies will be responsible for sub-programmes as follows:

The Implementing Agency of the Ministry of Regional Development and Prognosis through its Cross Border Co-operation Directorate on the Romanian side will be responsible for all programmes and sub-programmes.

g.) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive¹² are fully applicable for all investment projects under PHARE. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive. If a project would fall within the scope of annex I or

¹¹ in particular, but not exclusively, accounts run by the NF, the CFCU and IAs

¹² DIR 85/337/EEC; OJ L 175/40; 5.7.1985; as amended by DIR 97/11/EEC; OJ L 73/5; 14.3.1997

annex II of the EIA Directive, the carrying out of the EIA-procedure must be documented¹³.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive¹⁴ must be documented¹⁵.

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.

h.) Special rules for certain components for the programme

The Joint Small Projects Fund will not include physical investments other than small infrastructure not generating substantial net revenue.

For the CBC Joint Small Project Fund, up to 7% of the PHARE contribution may be used for expenditure relating to the preparation, selection, appraisal and monitoring of the assistance.

4.3. 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, line ministries and other institutions concerned, on expert level. These working groups will review in detail the progress of each project, putting forward recommendations on aspects of selection, management and evaluation, reporting to the JCC.

The European Commission representatives take part to the meetings of JCC as full members. They examine the conformity with EU rules, requirements of proposed measures and projects, and of implementation arrangements, taking a view on the complementarity of project proposals with respect to the Phare CBC counterpart 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 joint 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 European Commission. Extraordinary meetings called at the request of the European Commission may be held in Brussels.

¹³ in **Annex EIA** to the corresponding investment project fiche

¹⁴ DIR 92/43/EEC; OJ 206/7; 22.7.1992

¹⁵ in **Annex Nature Conservation** to the corresponding investment project fiche

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.

5. MONITORING AND EVALUATION

Project implementation of this programme will be monitored through the Joint Monitoring Committee (JMC). It includes the NAO, the NAC and the Commission services. The JMC will meet at least once a year to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds. Furthermore the JMC will review the progress of all pre-accession EU-funded assistance programmes once a year (PHARE, ISPA and SAPARD).

For the PHARE programme, the JMC will be assisted by Sectoral Monitoring Sub-Committees (SMSC) which will include the NAC, the PAO of each Implementing Agency (and of the CFCU where applicable) and the Commission Services. The SMSC will review in detail the progress of each programme, including its components and contracts, assembled by the JMC into suitable monitoring sectors. Each sector will be supervised by one SMSC on the basis of regular monitoring reports produced by the Implementing Agency, and interim evaluations undertaken by independent evaluators. The SMSC will put forward recommendations on aspects of management and design, ensuring these are effected. The SMSC will report to the JMC, to which it will submit overall detailed opinions on all Phare financed programmes in its sector.

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

6. ANTI AND FRAUD-MEASURES

a.) By the Candidate Countries

Each year an audit plan and a summary of the findings of the audits carried out shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

Appropriate financial control shall be carried out by the competent national financial control authority with respect to the implementation of the programme.

Beneficiary countries shall ensure investigation and satisfactory treatment of suspected and actual cases of fraud and irregularity following national or Community controls.

Irregularity shall mean any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of

prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Fraud shall mean any intentional act or omission relating to:

- (i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,
- (ii) non-disclosure of information in violation of a specific obligation, with the same effect,
- (iii) the misapplication of such funds for purposes other than those for which they are originally granted .

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94¹⁶.

In particular, all suspected and actual cases of fraud and irregularity as well as all measures related thereto taken by the national authority must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud and irregularity to report, the beneficiary country shall inform the Commission of this fact at the end of each quarter.

b.) By the Commission

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 audits by 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 may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96¹⁷.

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.

7. 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 European Commission Delegation. Further details are at the Annex 'Visibility/Publicity (Annex 3).

¹⁶ OJ L 178; 12.7.94; p. 43-46

¹⁷ OJ L 292; 15.11.1996; p. 2-5

8. 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 European Commission may review the Programme with a view, at the European 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.

For the two projects concerning environment protection (Development of a Control (Monitoring) System for Emissions of VOC, PAH and Heavy Metals from stationary sources in the Boundary Bulgarian-Romanian regions along the Lower Danube), their implementation will take into full account, and be compatible with, any commitments presented by either country during the process of accession negotiation on chapter 22.

ANNEX ON

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

1. Objective and scope

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

2. General principles

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

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

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

- Regulation (EEC) 1159/2000 Official Journal of the European Communities No L130/30, 31 May 2000;
- Commission Decision of 31 May 1994; Official Journal of the European Communities No L 152/39, 18 June 1994.

Specific provisions concerning ISPA are included in:

- Commission Decision of 22nd June 2001, Official journal of the European Communities No L.182/58

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

3. Information and publicity concerning Phare programmes

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

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

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

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

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

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

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

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

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

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

4.1 Business circles

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

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

4.2 Other potential beneficiaries

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

Forms

Forms issued by national, regional or local authorities concerning the announcement of, application for and grant of assistance intended for final beneficiaries or any other person eligible for such assistance shall indicate that the EU, and specifically the Phare, Ispa or Sapard Programmes, is providing financial support. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the Programme in question. If such documents bear the national or regional emblem, they shall also bear the EU logo of the same size.

4.3 The general public

The media

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

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

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

Information events

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

Information material

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

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

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

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

5. Special arrangements concerning billboards, commemorative plaques and posters

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

Billboards

Billboards providing information on EU participation in the financing of the investment should be erected on the sites of all projects in which EU participation amounts to EUR 1 million or more. Even where the competent national or regional authorities do not erect a billboard announcing their own involvement in financing the EU assistance must nevertheless be announced on a special billboard. Billboards must be of a size which is appreciable to the scale of operation (taking into account the amount of co-financing from the EU) and should be prepared according to the instructions contained in the technical manual obtainable from EC Delegations, referred to above.

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

Commemorative plaques

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

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

6. Final provisions

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

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