

FINANCING MEMORANDUM¹

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

on the one part, and

The Government of the Republic of Bulgaria, hereinafter referred to as "THE RECIPIENT"

on the other part,

HAVE AGREED AS FOLLOWS:

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

ARTICLE 1 - NATURE AND SUBJECT

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

Programme number: **BG2003/004-937**

Title: **2003 Phare National Programme for Bulgaria**

Duration: **Until 30 November 2005**

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of **94.9 M€** 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 2005** 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

¹ The Financing Memorandum structure is as follows : 1. the coverpages with the references to the country concerned, amount and authority to sign, 2. Framework Agreement incl. Annex A and Annex B; Annex C – Special Conditions (the text of the adopted financing proposal starting from **Description and Objectives** onwards; and Annex D 'Visibility/Publicity).



by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is **30 November 2006** with the exception of the projects *BG2003/004-937.01.02*, *BG2003/004-937.01.03*, *BG2003/004-937.01.04*, *BG2003/004-937.03.03*, *BG2003/004-937.05.01*, *BG2003/004-937.11.01*, *BG2003/004-937.11.02* and *BG2003/004-937.11.03* where the deadline for disbursement is **30 November 2007**. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.

ARTICLE 4 - ADDRESSES

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

for the COMMUNITY:

Delegation of the European Commission
9 Moscovska Str
PO Box 668
BG-1000 Sofia
Bulgaria

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

for THE RECIPIENT:

Mr Milen Veltchev
Minister of Finance
102 Rakovski St
BG-1040 Sofia
Bulgaria

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.

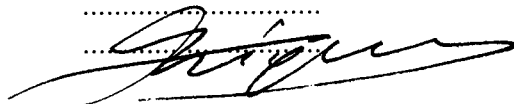
Done at 28/10/2003
Date

Done at 28/10/2003
Date

for THE RECIPIENT

.....
.....


for THE COMMUNITY

.....
.....


Encl.:

1. Framework Agreement (incl. Annexes A & B)
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)



ANNEX C TO THE FINANCING MEMORANDUM

SPECIAL PROVISIONS

1. OBJECTIVES, DESCRIPTION AND CONDITIONALITIES

The Bulgarian authorities have agreed with the Commission that Phare 2003 should focus on six overarching priorities related to accession. These priorities are:

- Strengthen public administration at all levels and the judiciary
- Improve transparency, financial control and the fight against corruption and fraud
- Promote economic growth and competitiveness and social cohesion
- Integrate minority and vulnerable groups into mainstream society and create a more dynamic and pluralist civil society
- Enhance the administrative and judicial capacity to implement and enforce legislative measures and assume the obligations of EU membership
- Improve the strategic planning and effective utilisation of EU funds and prepare for Structural Funds (including implementing EDIS)

Summary descriptions¹ of the individual projects grouped under a number of accession related Objectives are as follows:

BG2003/004-937.01.01: Strengthening of the Administrative Capacity of the Council of Electronic Media in Bulgaria

This project, involving twinning, aims to improve the radio and TV media system in Bulgaria by strengthening the capacity of the Council for Electronic Media to implement the acquis and monitor the process of compliance by the licensed and registered radio and TV operators. It focuses on harmonization with the EU media regulatory practices, creation of monitoring powers, implementation of sanctioning powers, implementation of a balanced and proportional audiovisual policy that ensures both free competition and pluralism in the sector, increasing general awareness of the acquis adoption and its enforcement, development of the administrative capacity of the Council for Electronic Media and improvement of collaboration between institutions (the Ministry of Culture and the Council for Electronic media) in the area of the practical implementation of the legislation concerning copy and related rights; preservation of cultural diversity .

BG2003/004-937.01.02: Civil Society Development

The aim of this project, involving institution building, is to increase the role of civic society in the process of policy formulation at all levels – national, regional and local - through enhancing the capacity of the non-governmental organisations, developing adequate mechanisms for structured dialogue between the state and the “third sector”, building public private partnerships and recognizing the role of NGOs in the Accession process. These efforts of the NGOs will aim at the fostering of social inclusion of people in vulnerable positions or people being economically or politically

¹ Descriptions are indicative; some details may be changed



marginalised. The project focuses on; the promotion of a public-private dialogue and partnership in the decision making process at all levels; strengthening the dialogue and consultation procedures between the state, NGOS and citizens at grass-root level; developing the institutional and operational capacity of NGOs up to the EU standards and practice; building long-term capacity for sustainable local development and provision of community based services; and increasing the public awareness on the role of NGOs in the Accession process. It constitutes the first phase of an expected multi-year Phare investment in this area.

BG2003/004-937.01.03: Roma Health and Education

This project, which involves investment, aims to support the economic and social integration of vulnerable minority groups with a special focus on Roma by improving their level of education and health conditions, to foster good interethnic relations and to implement part of the Framework Programme for the Equal Integration of the Roma in Bulgarian society. It focuses on improving access to quality education and health care for vulnerable minority groups with a special focus on Roma including: a) the adaptation of the curricula of pre-school, primary (grades 1 to 8) and secondary education (grades 9 to 12), the qualification/pre-qualification of teachers and the improvement of the material base of selected integrated kindergartens and schools; and b) the qualification of medical staff to work in multicultural environment, support to preventive health care services and health promotion and education.

BG2003/004-937.01.04: Child Welfare and Mental Health

This project, which involves TA and investment, aims to support the development and improvement of alternative medical, social and educational services for both children and adults with mental disabilities. The TA focuses on harmonizing legislation in compliance with the best practices and standards of the EU, Developed Municipal Action Plan in each of the pilot municipalities for reformation of the system engaged with the problems of mental health, developing various models of diagnostics and care, establishing programmes of rehabilitation and resocialisation and various training programmes. The grant scheme focuses on the delivery of alternative services to mentally disabled people.

BG2003/004-937.02.01: Strengthening the administrative capacity of the State Agency for Metrology and Technical Surveillance

This project, which involves TA and investment, aims to assist enforcement of the *acquis* related to liquid fuels quality control and a national liquid fuels quality monitoring system and measuring systems for liquids other than water, as well as ensuring metrological control of measuring instruments used in medicine and establishing international recognition of temperature and effected measurement results. It focuses on strengthening the administrative, monitoring and testing capacity for enforcement of the *acquis* related to the field of liquid fuels quality control, strengthening the administrative and technical capacity for enforcement of the *acquis* related to measuring systems for liquids other than water, strengthening the administrative and technical capacity for carrying out metrological control of measuring instruments used in medicine and establishing state-of-the-art standard laboratory for thermophysics measurements.

BG2003/004-937.02.02: Institution Building for the Tourism Agency

This project, which involves TA, aims to facilitate the effective implementation of the Tourism Act of October 2002, in order to create favourable conditions and services for the tourism industry by the establishment of a competent institution and to achieve an effective public private partnership. In addition, it aims to diversify and promote new modern and higher quality types of services, to enlarge some markets and develop new ones. The project focuses on support for the Institutional Building of the Executive Agency for National Tourism Promotion to help define and implement procedures for achieving and developing a comprehensive national marketing strategy and to create

the prerequisites for the implementation of tourism projects which lead to a geographical and seasonal spread of tourism in Bulgaria.

BG2003/004-937.02.03: Introduction of a Cluster Approach and the establishment of a Cluster Model

This project, which involves TA, aims to improve the competitiveness of appropriate sectors of the Bulgarian Economy using cluster model advantages in order to achieve sustainable economic growth. It focuses on the establishment of clusters in selected sectors and the strengthening of institutional capacity for implementing cluster models using EU practice as groundwork for the successful multiplication of the pilot cluster model in other sectors.

BG2003/004-937.02.04: Food Safety

This project, which involves twinning and investment, aims to secure the implementation of the Bulgarian food safety legislation through human resource strengthening and provision of this equipment, in order to provide a high level of food safety. It focuses on developing the capacity of the institutions responsible for food safety control through equipment delivery and staff training, improving existing food control systems throughout the whole food chain, through better streamlining of responsibilities and coordination between stakeholders implementing food safety policy, making the National Rapid Alert System (RAS) fully functional and ensuring that the legal framework related to Chapter 1 and Chapter 7 is fully harmonised.

BG2003/004-937.03.01: Veterinary Border Control

This project, which involves investment, aims to provide support and assistance to the re-organization, preparation and adjustment of the veterinary sector of Bulgaria in view of the future integration in the European Union through effective transposition and implementation of the EU control systems. The project focuses on effective protection of the territory of Bulgaria and of the EC Member States against the penetration of contagious diseases of animals and public health protection and will result in constructed and equipped Border Veterinary Inspection Posts at Bregovo, Gueshevo and Zlatarevo and the introduction of EU veterinary border control procedures for the import/export/transit system.

BG2003/004-937.03.02: Rendering Plants

This project, which involves TA, aims to bring the animal waste rendering system in BG in line with the EU requirements by assisting the National Veterinary Service in the establishment of an EU compliant processing plant for animal by-products in Bulgaria. The project focuses on preparing a technical feasibility study for a new processing plant for animal by-products. The study will cover economic/financial aspects, an environmental impact assessment, tender documentation including working designs, tender documentation ready for the supply tender – including a detailed list and specification of the technical equipment required to satisfy the operation of the processing plant and an overall strategy for animal waste management including organisation structures.

BG2003/004-937.03.03: Integrated Administrative and Control System (IACS) Phase 2

This project, which involves investment, aims to develop a technical and administrative scheme in Bulgaria necessary to have a fully operational system in charge of the correct control of the EAGGF funds by equipping and training the Paying Agency in Bulgaria for the appropriate management of EAGGF-type of funds . It focuses on equipping the Paying Agency and several regional offices equipped, preparing and running a programme for IACS in pilot areas and developing capacity to perform controls and cross-checks (both field and automated). It is a follow up and linked to the Phare 2002 IACS project.



BG2003/004-937.04.01: Vessel Traffic Management and Information System (VTMIS) Phase 2

This project, which involves investment, aims to promote marine safety in Bulgarian territorial waters, economic development through improvement of transport through Bulgarian ports and through industrial development in Bulgaria and promotion of the protection of the (marine) environment on Bulgarian territorial waters. It focuses on creating the technical means of a Vessel Traffic Management Information System as an integrated instrument to achieve the Bulgarian Government's objectives with regard to marine safety, protection of the environment and economic development. It will also help develop technical and institutional capabilities in Bulgaria to realise and maintain the VTMIS. The project is split into two phases and Phase 2 is likely to be supported under Phare 2004.

BG2003/004-937.04.02: Control System for Roadside Inspections and Checks

This project, involving twinning and investment, aims to create a control system within the road transport sector which will promote road safety, social progress and development of a strong commercial and competitive ethos in all aspects of its operations, laying down the framework for the implementation of various EU *acquis* requirements and the Road Transport law. It focuses on building and adapting the Bulgarian control system to function in the conditions of the transport market in compliance with the *acquis* and to promote the process of development of Bulgarian economy, creating an efficient organisational, management and control structure, adaptation of the National transport fleet to the EU technical and safety requirements, staff training for personnel required to operate within the new control system and social standards as well as up-date the technical and safety level in the "National" road transport segment.

BG2003/004-937.04.03: Strengthening the administrative capacity of the Executive Agency for Maritime Administration

This project, which involves twinning, aims to implement TQMS as a tool to reinvent Government and to stimulate service excellence in accordance with European standards by: transposition and implementation of the EU *acquis* in Bulgarian maritime sector, simplifying and harmonising the related procedures specifically; reinforcement and strengthening of the Executive Agency "Maritime Administration" in order to ensure adequate administrative capacity for enforcement of the *acquis* related procedures and rules; raising the effectiveness and efficiency of the Agency's operations by providing better understanding of Total Quality Management (TQM) and introduction of Computerised Quality Management System, registers, database, software and hardware; preparation of the Agency staff for quality partnerships, co-operation between authorities and operators in Europe in order to improve service co-ordination and, in consequence, service quality; and developing knowledge of maritime and sector specific terminology, allowing the administration to work operatively with the EU written documentation and to actively participate and contribute to the process of EU integration. It focuses on strengthening the administrative capacity of Executive Agency "Maritime Administration" by Introduction of European Standards with respect to safety and ensuring transparency of services.

BG2003/004-937.05.01: Social Sphere Commitments

This project, involving TA and investment, aims to assist implementation of the pre-accession commitments of Bulgaria in the area of Occupational Safety and Health (OSH), the adoption of the OSH working conditions in risk industries in conformity with the European requirements and standards and the establishment of a national monitoring system in the area of occupational safety and health. It focuses on improvement of the administrative capacity of the executive Agency "General Labour Inspection" (EA "GLI") in terms of implementation of the pre-accession commitments of the country in the area of OSH

BG2003/004-937.05.02: National Database for Labour Market and Structural Funds Instruments

This project, which involves TA and investment, aims at the improvement of the effectiveness of the labour market policies and ESF interventions through the establishment of a national database for the labour market and the ESF as well as for the future inclusion into the EURES network. It focuses on the creation of a National Database for labour market and training of system administrators and end users at local level for working with the new database.

BG2003/004-937.05.03: Vocational Qualifications

This project, involving TA and investment, aims at improving national Labour Force quality, mobility and competitiveness with a view to European labour market integration and ensuring compliance of Labour Force vocational qualification with labour market demands. It focuses on improving the conditions of quality training for the acquisition of vocational qualification. Expected results include a system for identifying and monitoring of the employers' demands of Labour Force vocational training; the development of an a strategic framework for vocational training of adults; upgrading of vocational qualification standards in Bulgaria in compliance with best practices in EU countries; and various training activities (including training staff to apply the methodology for vocational training of adults and training for the application of relevant standards)..

BG2003/004-937.06.01: Oil Stocks

This project, involving twinning, aims at the realisation of State supervision for implementation of the requirements of the acquis for the accumulation, maintenance and consumption of mandatory 90-day oil stocks through the establishment of effective administrative structures for the State Agency "State reserve and war-time stocks ". It focuses on improved functionality and organization of the activity of the units for management and control of the mandatory oil stocks, establishment and implementation of an Automatic Information System (AIS) for assurance of management and control of the quantity and quality of the oil stocks and preparation of a technical and economic assessment of compliance with the requirements of ISO for the available vessel capacity.

BG2003/004-937.06.02: Electricity Market

This project, involving TA and investment, aims at the creation of conditions for the participation in the electricity market of all non-residential customers in a competitive market by establishing technical conditions for the operation of the Transmission System Operator (TSO) in administration of bilateral contracts and structuring and operating a Balancing Market (BM). It focuses on the development of a methodology on load profiling for eligible customers as to their participation in the open market and development, procurement and commissioning of specialised software and hardware for the TSO.

BG2003/004-937.06.03: Institution Building for the State Energy Regulatory Commission

This project, involving twinning, aims to strengthen the Bulgarian energy regulator and harmonize the Bulgarian energy legislation with the EU directives on the market liberalization. It focuses on enhancing the State Energy Regulatory Commission's (SERC) role in the development of a competitive energy market, cross border trade and public service obligations. It focuses on strengthening the operations of SERC, and to improve its capacity to; develop mechanisms for implementation of the EU directives; enforce market rules and structures for a competitive energy market; introduce rules for development of cross border energy trade; and enhance the SERC's role in monitoring of implementation and the development of rules and regulations on assignment of public service obligations to transmission and distribution utilities.

BG2003/004-937.07.01: Chemical Substances

This project, involving twinning, aims to assist the Republic of Bulgaria in aligning the national law, rules and procedures in order to give effect to the EU chemical control legislation, as well as to develop the knowledge concerning the institutional building and the strengthening of the administrative structures, in order to make them capable to implement and enforce the legislation on chemicals. It focuses on development of efficient administrative and technical structures, receiving updated knowledge about the available techniques and methods, training of staff at national and regional level, awareness in the staff of the competent authority of the available practices in the stages of evaluation of the procedures of notification and Risk assessment, improvement of effective control procedures, development of adapted detailed guidance documents for notification and Risk assessment procedures and preparation of the chemical industry to raise to the level of compliance with technical requirements, linked to the legislation on the chemicals.

BG2003/004-937.07.02: Water Basin Management

This project, involving twinning, aims at the implementation of the EU Water Framework Directive in the Danube River Basin. It focuses on co-ordination of all WFD implementation activities in the Danube River Basin through a WFD Implementation Unit established within Ministry of Environment and Water, the preparation of the Danube River Basin Management Plan and dissemination of methodologies and guidelines to all four Bulgarian River Basin Authorities, Directorates and Councils.

BG2003/004-937.07.03: Air Monitoring

Further and full implementation of EU Air Quality Legislation by improving the administrative capacity in the relevant agencies with regard to quality assurance and control (QA/QC) in the National Ambient Air Monitoring System (NAAMS). The project focuses on the establishment of QA/QC system for ambient air quality and emission measurements within NAAMS (including, further establishment and putting into operation of Calibration Labs) and approval and implementation of a Plan for future development of the Calibration Labs in order to cover the new air quality parameters contained in the latest acquis.

BG2003/004-937.08.01: Reform of Civil and Penal Procedures

This project, which involves twinning, aims at the improvement of the legal and organizational framework of the civil and penal procedures in order to develop European standards in justice, that will contribute to the process of preparation of the Republic of Bulgaria in order to join the European Union. It focuses on the provision of fast, efficient and quality court procedures through implementation of a reform in the civil and penal legal proceedings and preparing a new concept and draft legislation of the laws regulating them.

BG2003/004-937.08.02: Information Technology for Judicial Reform

This project, which involves investment, aims to continue the Judiciary business computerization, facilitate the Judiciary users day-to-day work, achieve immediate provision and control of Judiciary information, strengthen the administrative capacity of Ministry of Justice "Information Service and Technologies" Directorate and introduce proper IT standards and methodology in the MoJ "Information Service and Technologies" Directorate. It focuses on computerisation of the main business functions of the Judiciary system and providing experienced Technical assistance in the areas of IT and Judiciary specific systems area. It constitutes the first phase of an expected multi-year Phare investment in this area

BG2003/004-937.08.03: Academy of the Ministry of Interior

This project, involving twinning and investment, aims at the fulfilment of standards in order to prepare for full participation in the area of freedom, security and justice in accordance with the EU and Schengen *acquis* as well as the strengthening of the administrative capacity of the Ministry of the Interior (MoI) to effectively implement the *acquis* in the field of police co-operation. It focuses on providing a training development assistance package for the MoI Academy aimed at; preparation of the teaching staff to implement a new-style training system for current and new recruits covering a range of professional basic and specialised skills; and enabling the MoI staff to carry out its law enforcement functions along the same lines and standards as their EU colleagues.

BG2003/004-937.08.04: Mobile Units along the Green Border

This project, involving investment, aims at further strengthening of the border management in Bulgaria, through introduction of operational standards and requirements based upon the EU best practices of border control, as well as through modernisation of the equipment in compliance with the EU standards for external borders. It focuses on further stimulation of the process of strengthening border control and management through introduction of surveillance equipment in the border regions of Elhovo (the border with Turkey) and Bourgas (the Black Sea border) in order to fight effectively all forms of criminality that takes place across the Bulgarian state border. It constitutes the first phase of an expected multi-year Phare investment in this area.

BG2003/004-937.08.05: Refugee Agency Accommodation

This project, involving investment, aims to strengthen Bulgaria's asylum accommodation capacity and to allow the conduct of the accelerated procedure within the frame of the new legislation and to be in line with the EU *acquis* in respect of the minimum accommodation standards. It focuses on the building of and equipment for two transit centers for the reception and maintenance of asylum seekers in a reliable system for the handling of illegal immigration in accordance with EU standards and practices. This implies the realisation of the existing construction plans, policies and practices based on appropriate legislation, the *Aquis Communautaire* and international standards and the creation of adequate infrastructure in which to discharge these responsibilities and tasks.

BG2003/004-937.09.01: Customs Laboratory

This project, which involves investment, aims to support the overall customs Business Strategy by determining nature, tariff classification, origin and value of goods and thus to maximise the collection of duties and taxes, and to provide support for the prevention of illegal traffic of goods. It focuses on further development of National Customs Laboratory Network to achieve the operational capacity, which includes legal basis, management policies, analytical equipment, analytical methods, training programmes and working methods, required to perform the full range of duties in line with the EU best practice.

BG2003/004-937.09.02: Customs Computerisation

This project, involving investment, aims to allow NCA Tariffs, and Information Technology (IT) departments to adopt the EU standards and practices and to computerize in order to achieve compatibility with the DG TAXUD systems. The project focuses on assisting the Bulgarian Customs Agency in automatically applying the above EU requirements promptly and efficiently as it is specified in the EU legislation. To achieve this BCA will computerise the necessary EU standards and practices for the specific DG TAXUD systems at National level. This computerisation will affect the BCA Integrated Tariff Management System (ITMS) and other applications that serve as reference data to the system. The specific applications affected by the computerization are: Taric and national Tariffs, Quotas, Ceilings and other surveillance measures, Tariff suspensions, Binding tariff and origin data, Inward processing (ISPP), ECICS and TCO (SMS).

BG2003/004-937.09.03: Further Implementation of the New Model of Public Internal Financial Control in Bulgaria

This project, involving twinning and investment, aims at further development and implementation of the new legislative framework on Public Internal Financial Control in compliance with the acquis and strengthening the administrative capacity of the Public Internal Financial Control Agency with the aim to develop it into a modern public internal audit institution. Results expected include: further development of the legal framework; further improvement of the administrative capacity of the PIFC Agency by enhancement of the structure and raising the level of skills and knowledge of the internal auditors; establishment of a Training centre for the staff of the PIFC Agency; and development of the IT system of the PIFC Agency.

BG2003/004-937.09.04: Strengthening the administrative capacity of the National Audit Office

The purpose of this project, which includes Twinning, is further to continue the progress of the National Audit office as a modern Institution on order to meet the Copenhagen criteria. This task is to be met continuing the development of the NAO (central and regional offices) as a professional external audit institution, which is able to implement and enforce the acquis and ensure high level of competence and effectiveness in the execution of different types of audits in compliance with the EU requirements and good practices. Expected results are as follows: further development of the legal framework including updating of the NAO audit standards and guidelines for their implementation, NAO Administrative Manual and Audit Manual, and rules development for the audit of execution of budgets under the NAO Act as well as instructions for the application of CAATTs; additional reinforcement of the NAO managerial and administrative capacity (central and regional offices); enhancement of the NAO auditors' skills in performance audit, audit of EU funds and audit of the budget execution with the use of CAATTs; and further implementation of the NAO IT system (second phase).

BG2003/004-937.10.01: Public Administration Reform: Improved Service Delivery

This project, involving TA, aims to strengthen the capacity of the Bulgarian public administration to implement the Strategy for Modernization of the Public Administration and respond to the demands for openness to the citizens, accountability and better public services. It focuses on assisting the Bulgarian public administration to create mechanisms and systems for service delivery to the public incorporating innovative technologies aimed to develop an ongoing relationship with the citizen-customer with constantly improving quality and increasingly fast response times of the services.

BG2003/004-937.10.02-10.04: Preparation of the Ministries of Regional Development and Public Works, Economy and Finance for Structural Funds

These closely linked projects, which involve twinning and TA, aim at strengthening institutional structures at central level in order to achieve, upon accession, sound and efficient management of EU Structural and Cohesion Funds. In the case of the Ministry of Regional Development and Public Works, the aim is also to prepare the Bulgarian regional authorities for effective implementation of regional development programs, thus ensuring more transparent involvement of the regions in programming, implementation, monitoring and evaluation of EC assistance in line with the partnership principle and to develop sound and effective co-ordination between the central and regional institutions in order facilitate the absorption of the future funding under EU Structural and Cohesion Funds.

The projects focus on; reinforcement of the administrative capacity of MRDPW at central and regional level for programming, implementing, monitoring and evaluating economic & social cohesion strategies and projects; preparing the Ministry of Economy to function as a Managing Authority for Operational Programme "Development of the Competitiveness of the Bulgarian Economy" and to increase its capacity for programming, management, evaluation and monitoring of projects and programmes under EU Structural Funds and structural funds type programmes; and strengthening the capacity of the Management of European Union Funds Directorate and the

National Fund Directorate within the Ministry of Finance as future Managing and Paying Authorities.

It is planned that the three projects will be covered by a single, co-ordinated twinning approach.

BG2003/004-937.10.05: Unallocated institution building envelope (including twinning light facility)

This facility, building on the one provided under Phare 2002, will provide Institution Building support through assistance (twinning, twinning light, or other form of technical assistance) to meet the requirements related to specific urgent and unforeseen needs identified in the course of the accession negotiation process. In particular this facility may help to: assist the adoption and implementation of acquis in particular areas where assistance is still necessary; strengthen the institutional and operational capacity of public administration bodies in view of the future role in the implementation of the EU acquis; develop human resources of public administration institutions relevant for the implementation of the EU acquis; facilitate public administration reform; and develop the institutions involved in current and future management of EC funds. Funding will be allocated as required for monitoring and interim evaluation of Phare projects after the end of the current EU centrally funded contract A Steering Committee chaired by the National Aid Coordinator will manage the facility, identify suitable projects, and propose them to the Commission Delegation for approval.

BG2003/004-937.11.01: Alternative Employment

This project, which involves investment, aims at increasing employment and the promotion of alternative forms of businesses through increased level of employability and entrepreneurship of the labour force in the context of the alternative employment. It focuses on an awareness campaign for alternative forms of employment, training and re-qualification, promotion of entrepreneurship in the field of alternative forms of business, grant scheme for small enterprises, family businesses and new businesses in the context of the alternative forms of business.

BG2003/004-937.11.02: Water Supply for Tourism areas

This project, involving investment, aims to reduce regional disparities through enhancing the potential of the tourism sector, and provide business opportunities and higher incomes to the local population by improving the supply of water and sewage networks in areas of existing and potential tourism development and concentrations of SMEs. It is expected to result in a modern water supply system at sites of tourist interest or concentrations of SMEs from other sectors, a sewage drainage network, connecting the sites to the local wastewater treatment plant, an increase of autonomous income of municipalities and a decrease of migration. It constitutes the first phase of an expected multi-year Phare investment in this area.

BG2003/004-937.11.03: Regional Development Scheme

This project, which involves investment, aims at creating the conditions for balanced endogenous development in the Bulgarian regions; reducing intra-regional disparities in employment, income and development opportunities; and strengthening the administrative capacity for effective implementation of regional programmes, thus ensuring strong input of the regions in the programme management cycle taking place at national level. It focuses on the establishment of background experience and practical skills for operating an integrated scheme of interventions in conformity with EU structural funds regulations and practice, by pilot testing such in North-East (NE) planning region of Bulgaria. It constitutes the first phase of an expected multi-year Phare investment in this area.

BG2003/004-937.12.01: Participation in EC programmes and agencies

This facility will provide Phare co-financing to help Bulgaria pay its contribution for participating inter alia in the following EC programmes and agencies in 2004: Leonardo da Vinci II, Socrates II, Youth, Sixth Research Framework Programme (including Euratom), Culture 2000, Enterprise and Entrepreneurship, Media, European Environment Agency, IDA II, Gender Equality, Community Action in the field of Public Health, Combating Social Exclusion, Combating Discrimination, Community Incentive Measures in the field of Employment, Customs 2007, Fiscalis 2007, e-content, e-save, Civil Protection Mechanism, Altener and Save. Both Phare co-financing and participation will take place on the basis of the relevant Association Council decisions or Memoranda of Understanding.

BG2003/004-937.12.02: Project preparation facility

This facility, building on the ones in 2001 and 2002, will strengthen the capacity of Bulgarian institutions to prepare and manage Phare projects and play a fuller partnership role in Phare programming. It should contribute to better project design and results. Technical assistance will be provided for feasibility studies, training in programming, project design and project management, and the preparation of projects, technical specifications, procurement plans, tender dossiers and environmental impact assessments. The facility will be managed by the National Aid Coordinator in close consultation with the Commission Delegation. Assistance will only be given for preparing projects linked to agreed programming priorities. There will be a strong emphasis on Bulgarian involvement in project preparation, in order to enhance progressively the capacity of domestic institutions to prepare and manage projects themselves.

Lessons Learned

Experience with the implementation of Phare programmes in previous years and evaluation have led to a number of general lessons being learned. These lessons are reflected in the design and implementation of the 2003 National Programme. The most important lessons relate to constraints on Bulgarian administrative capacity both across the board in many line Ministries and agencies and more specifically in Ministries acting as Implementing Agencies. Medium to long term efforts to reinforce this capacity are already under way and are supplemented in Phare 2003, but in the meantime additional measures have been put in place to assist. These include efforts to support horizontal public administration reform, limiting the number of grant schemes as these place extra burdens on administrative capacity, restricting the number of Implementing Agencies, avoiding complex multi-phase contracting and building in an unallocated reserve for institution building. Another key lesson is that the success of Phare projects, especially institution building, depends on continuity of key senior and working level personnel. In addition to conditionality in project agreements, this issue is being addressed in the context of public sector reform and strengthening, eg by developing civil service contracts and conditions to avoid politically motivated staff transfers.

More specific lessons relating to individual sectors, Ministries or project types have also been learned and are reflected in individual project documents.

Overall programme conditionalities

Before the Financing Memorandum between the Commission and the Government of Bulgaria is signed, the National Aid Coordinator will satisfy the Commission that it is taking adequate steps to staff and resource adequately the National Fund, CFCU, Ministry of Regional Development and Public Works, other Implementing Agencies and project management units involved in implementing this programme.



Before the Financing Memorandum between the Commission and the Government of Bulgaria is signed, the National Aid Coordinator will confirm the availability of the national co-financing indicated in each project fiche, and the modalities for combining Phare and national co-financing when projects are contracted.

Any project involving the supply of equipment and works requires national co-financing as shown in the relevant project fiche. If the total cost of such equipment or works is less than the amount envisaged in the fiche, the amount of Phare support will be reduced to maintain unchanged the relative proportions of Phare support and national co-financing shown in the fiche. If the total cost is greater than the amount envisaged in the fiche, the extra support required will be provided by additional national co-financing.

Before the Financing Memorandum between the Commission and the Government of Bulgaria is signed, the National Aid Coordinator will satisfy the Commission that draft twinning covenants, terms of reference and technical specifications have been prepared, as appropriate, to allow each project to be launched immediately.

For any project delivered partly or wholly by twinning, a draft twinning covenant shall be presented to the Commission Delegation for approval within four months of notification of selection of the twinning partner. If no draft covenant is presented within this period, the Commission may re-circulate the project to Member States for selection of a new twinning partner, tender the project for commercial technical assistance, or cancel the project.

Projects to be implemented through twinning or twinning light require the full commitment and participation of the senior management of the beneficiary institution. In addition to providing the twinning partner with adequate staff and other resources to operate effectively, the senior management must be fully involved in the development and implementation of the policies and institutional change required to deliver the project results.

For projects involving more than one Bulgarian Ministry or agency, the National Aid Co-ordinator will ensure that effective mechanisms for co-operation and co-ordination between such Ministries or agencies are in place

Further project-specific conditionalities are described in each project fiche.



2. BUDGET

No.	DAC/CRS Code	OBJECTIVE	IB	INV	Total Phare (in M€)
01	15050	Political criteria	4.020	5.050	9.070
02	15010	Internal market and Economic criteria	2.900	5.050	7.950
03	31110	Agriculture	1.595	4.011	5.606
04	21010	Transport	1.085	3.137	4.222
05	16110	Employment, Social policy and Education	5.605	1.395	7.000
06	23010	Energy	3.100	1.100	4.200
07	41010	Environment	2.000	0.075	2.075
08	15030	Justice and Home affairs	4.200	9.650	13.850
09	24010	Customs and Finance	3.070	4.638	7.708
10	15040	Administrative reform and capacity	10.560	0.390	10.950
11	25010	Economic and Social cohesion	1.160	10.100	11.260
12	99810	Other programmes	8.129	2.880	11.009
		TOTAL	47.424	47.476	94.900

(The figures in the budget table are indicative only)

In accordance with the Phare Guidelines of 1999 and Revised Guidelines of 2002, all investment projects supported by Phare must receive co-financing from national public funds.

The Community contribution may amount to up to 75 % of the total eligible² public expenditure.

Co-financing for Institution Building projects is provided by the beneficiary bearing certain infrastructure and operational implementation costs, through financing the human and other resources, required for effective and efficient absorption of Phare assistance.

² Taxes are not an element eligible for co-financing

3. IMPLEMENTATION ARRANGEMENTS

a) Financial and Project Management by the Candidate Country

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures³.

The National Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring 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 as well as the other instructions of the Commission, and that all contracts required to implement the Financing Memorandum are awarded using the procedures and standard documents defined and most recently published by the European Commission for the implementation of External Actions.

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

Projects will normally be greater than € 2 million, except for selected cases as follows:

- 1) projects focused primarily on institution building where the Bulgarian Ministry/agency concerned has limited absorptive capacity and cannot utilise as much as € 2 million and
- 2) focused investments constituting part of a multi-annual package of support .

c) Deadline for contracting and execution of contracts; programming deadline

All contracts must be concluded by 30 November 2005. In no case can the contracting period exceed 3 years after date of the global commitment. Execution of all contracts must end by 30 November 2006.

Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted.

³ in accordance with the rules set down in Council Regulation 1605/2002 (Financial Regulation), the Commission Regulation 2342/2002 (Implementing Rules of the Financial Regulation) and the annex of Council Regulation 1266/1999

In the cases of the following more complex projects, however, execution of contracts must end by 30 November 2007. Justification is provided in the project fiches:

- BG2003/004-937.01.02 Civil Society Development
- BG2003/004-937.01.03 Roma Health and Education
- BG2003/004-937.01.04 Child Welfare and Mental Health
- BG2003/004-937.03.03 Integrated Administrative and Control System (IACS) Phase 2
- BG2003/004-937.05.01 Social Sphere Commitments
- BG2003/004-937.11.01 Alternative Employment
- BG2003/004-937.11.02 Water Supply for Tourism Areas
- BG2003/004-937.11.03 Regional Development Scheme

d) Clearance of Accounts Procedure and Recovery of Funds

A clearance of accounts procedure in line with Art. 53 para 5 Financial Regulation⁴ and Art. 42 of the Implementing Rules to the Financial Regulation⁵ will be put in place.

Any proven irregularity or fraud⁶ 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.

⁴ Council Regulation 1605/2002 of 25 June 2002

⁵ Commission Regulation 2342/2002 of 23 December 2002

⁶ As defined under number 8a (Audit and Anti-fraud Measures by the Candidate Countries) of this document

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 2 months after all payments have been made, 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 the Central Bank.

aa) Transfer of Funds to the National Fund

A first transfer of up to 20 % of the funds to be managed locally, representing pre-financing⁷ will be sent 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 further transfers of up to 30 % each of the funds to be managed locally will be made. The second transfer will be triggered when 5 % of the budget has been disbursed by the IAs and the CFCU. The third transfer may be requested when 35 % of the total budget in force has been disbursed. A fourth transfer will be made when 70 % of the total budget in force is disbursed and when all expenditure has been incurred (i.e. fully contracted). No later than 2 months after all payments have been made the National Fund will submit a final declaration of expenditure, which will trigger a balancing operation of all transfers against final certified expenditure incurred, which at that point will be equal to payments made (closure of expenditure⁸).

Exceptionally the NAO may request 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 interim payments may be made if the trigger points mentioned above have not been respected.

⁷ as defined in Art. 81.1.b.i of the Financial Regulation

⁸ as defined in Art. 105 of the Implementing Rules

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.

Under DIS, 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 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. 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) Transfer of Funds to the National Fund for Participation in Community Programmes and Agencies

A single advance will be made to the National Fund to cover the full amount of the PHARE part of the financial contribution for participation in Community programmes and agencies. This advance will be made following signature of the Financing Memorandum and upon request from the National Fund.

This advance is separate from the advances made for the rest of the programme. However, it should be noted that the Phare contribution for each programme will only be transferred when the Association Council Decision or Memorandum of Understanding establishing the terms and conditions for participation in that programme is in force.

If there is a delay in the entry into force of some of the Memoranda of Understanding, the payment to the National Fund may be divided into two or more tranches, so that 100 % of the funds necessary for the programmes in force can be transferred immediately.

The National Fund will be responsible for transferring the funds back to the Commission, following the call for funds of the Commission's Directorate General responsible for the programmes concerned and within the deadlines requested.

dd) Interest

In principle, all bank accounts⁹ 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.

⁹ in particular, but not exclusively, accounts run by the NF, the CFCU and IAs

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

The Central Finance and Contracting Unit (CFCU) of the Ministry of Finance will be the Implementing Agency for all programmes and sub-programmes with the following exceptions;

Ministry of Labour and Social Policy: BG2003/004-937..01.04, 05.01, 05.02, 05.03 and 11.01

Ministry of Regional Development and Public Works: BG2003/004-937.11.02 and 11.03

In addition, for BG2003/004-937.12.01, payments in respect of Participation in EC Programmes and Agencies are made by the National Fund direct.

g) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive¹⁰ 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 documented¹¹.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive¹² must be documented¹³.

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

Twining

The amounts earmarked for twinning projects will cover the eligible costs (as set down in the DIS instructions) for implementing the work plan agreed between the Member State and the Applicant Country. The eligible costs may include costs incurred by the selected Member State during the preparation of the twinning covenant in the period between signature of the Financing Memorandum and the final notification of the financing approval of the covenant.

¹⁰ 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

¹¹ in **Annex EIA** to the corresponding investment project fiche

¹² DIR 92/43/EEC; OJ 206/7; 22.7.1992

¹³ in **Annex Nature Conservation** to the corresponding investment project fiche

Grant Schemes

For Grant Schemes in the field of Economic and Social Cohesion (both within PHARE National Programme or PHARE CBC) the precise implementation arrangements will be specified in the relevant project fiches in line with the following principles:

- The procedures and formats to be used in the implementation of the schemes and award of the grants will follow the provisions of the Practical Guide. In particular, due care will be given to the selection process of the beneficiary projects, which has to be done at technical level through selection committees composed of experts appointed by the authorities which are co-financing the schemes as well as by the relevant administrations and interest groups involved in the schemes.
- The competent PAO for the programme under which the grant scheme is financed has to retain his/her contractual and financial responsibility for the implementation of the schemes. In particular, the PAO has to formally approve the call for proposals, application forms, evaluation criteria, as well as the selection process and results. The PAO has also to sign the grant contracts with the beneficiaries and to ensure adequate monitoring and financial control under his/her authority and responsibility. With this reservation, the management of the schemes can be decentralised from the PAO to the appropriate bodies at sectoral or regional level.
- The ex-ante approval of the Commission Delegation in the Republic of Bulgaria will be required, in conformity with the provisions of chapter 6 of the Practical Guide (decentralised ex-ante control).
- The implementation of selected projects through provision of works, supplies and services, sub-contracted by the final beneficiaries of the individual grants, shall be subject to the procurement regulations in the Practical Guide.
- Following a positive assessment of the Implementing Agency's capacity to operationally and financially manage the schemes in a sound and efficient manner (*cf. Section 11 and Annex 4 of the 2003 PHARE Programming Guide*), the Commission Delegation may decide to waive its ex-ante approval of sub-contracting carried out by final beneficiaries of individual grants. The detailed provisions governing the role of the Delegation in the above mentioned sub-contracting phase will be specified, as appropriate, in the exchange of letters between the Delegation and the National Authorities following the above mentioned assessment exercise.
- Grant schemes will not involve projects for which PHARE contribution is more than € 2 million and less than € 50.000. This lower limit may be waived as a result of the above-mentioned assessment of the Implementing Agency's capacity of giving assurance of sound financial management. This lower limit is not applicable in the case of NGOs.
- The financial commitments in Phare terms will be effected at the date of signature of the grant contracts by the competent PAO. The projects should be fully implemented before the expiry date for contract execution of the present Financing Memorandum.
- Any State aid financed under the programme will not be implemented unless it has been notified to and approved by the Commission for the Protection of Competition

4. 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.

5. AUDIT AND ANTI-FRAUD MEASURES

a) By the Candidate Countries¹⁴

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 national or Community law¹⁵, this Financing Memorandum or ensuing contracts or 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,

¹⁴ in accordance with the rules set down in Art. 54 of the Financial Regulation

¹⁵ defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (for example the Europe Agreement, the Framework Agreement, the Memorandum of Understanding on the Establishment of the National Fund etc.).

(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 within two months following 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 on-the-spot checks and measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned.

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.

6. VISIBILITY AND PUBLICITY

The appropriate Programme Authorising Officer will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the programme. This will be done in close liaison with the Commission Delegation. Further details are set down in the Annex "Visibility/Publicity". (*enclosed*)

7. SPECIAL CONDITIONS

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

¹⁶ OJ L 178; 12.7.94; p. 43-46

¹⁷ OJ L 292; 15.11.1996; p. 2-5

ANNEX D TO THE FINANCING MEMORANDUM

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.