

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 **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: 2003/5812.01

Title: Programme for Community support in the field of Nuclear Safety for 2003 for Bulgaria.

Duration: Until 30/11/ 2005

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of **1,037,000 EUR** 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 30/11/2005 subject to the provisions of his 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 execution of contracts of THE EC GRANT is 30/11/2006. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the contract execution period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall

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expire at the expiry date for execution of contracts 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:

Mr. Demetre Kourkoulas
Delegation of the European Commission
9 Moscovska Str.
1000 Sofia
Bulgaria

for THE RECIPIENT:

Mr Milen Velchev
Minister of Finance (National Aid Co-ordinator)
Ministry of Finance
102, Rakovski St.
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 SOEIA
Date 21/04/2004

Done at ELIZ
Date 13. 01 2004

for THE RECIPIENT

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for THE COMMUNITY

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

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ANNEX C - SPECIAL PROVISIONS

1. OBJECTIVES AND DESCRIPTION

1.1. Objectives

The overall objective of this programme is to contribute to improving nuclear safety in the beneficiary candidate countries.

The specific objectives of this programme are to

- enhance the factors affecting regulatory effectiveness as spelled out, for instance, in the conclusions of the CONCERT Group¹;
- increase radiation protection;
- improve radioactive waste management;
- heighten on-site emergency preparedness.

Details of the specific objectives are to be found in the project fiches (Annex 1).


Indicators of achievement

Overall indicators of achievement have, in the past, not been established for projects in the field of nuclear safety.

On the one hand, there are no Community common technical standards covering safety in the operation of nuclear installation, regulatory practices or radioactive waste management. Consequently, in their absence, the secondary step of deriving benchmarks from such standards is not possible. With regard to regulatory practices, respective expert literature has identified at least six different regulatory approaches, according to practices in Member States determined by their specific legal and technical traditions. In this light, the European Commission has adopted on 30 January 2003 a proposal for a Council directive setting out basic obligations and general principles on the safety of nuclear installations including a verification mechanism to ensure that a high level of nuclear safety is maintained within the enlarged European Union.

1.2. Description of Projects

¹ Conclusions of the 17th CONCERT Group meeting, June 29-30 2000. These factors are:

- "To be effective, a regulatory body must have a well-defined task, well-defined work and assessment processes, be independent from the energy producers, political power and pressure groups, be transparent and open, and have the adequate means, in terms of budget and competent and well motivated staff to perform its task.
 - An effective regulatory body is one that ensures an acceptable level of safety, acts to prevent degradation of safety, promotes safety improvements, is timely and cost effective, ensures the confidence of operators, general public and government, and strives continuously for improved performance.
 - A regulatory system is effective when the utilities consistently do all that they should to maintain or improve safety. Nevertheless, the performance of the plant operators depends also on other factors, and it is difficult to use it to assess the effectiveness of the regulatory body.
 - International co-operation and international peer reviews play an important role in the development and maintenance of an effective regulatory body."
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Essentially, the projects are described through the respective Project Fiche.

Most projects pertain to the field of institution building, supporting either the nuclear safety authority or agencies entrusted with specific duties regarding radioactive waste management or similar tasks. The revised PHARE Guidelines acknowledge that pre-accession financial assistance in the field of nuclear safety demands a distinct approach. Due to their specific technical nature and with the aim of enhancing public safety, the investment projects supported by this programme do not necessarily correspond to the general criteria of being catalytic, co-financed, or additional. The projects have, however, been chosen for being sufficiently mature and able to contribute to a sustainable improvement to the level of nuclear safety within their specific objectives.

This programme allocates financial assistance to the following projects:

Projects:

Bulgaria 5812.01

5812.01.01 Innovation of the Radiation Monitoring Systems at the Nuclear Scientific and Experimental Centre with Research Reactor IRT in Sofia

In 2001, the Bulgarian government decided to re-start operation of the former IRT pool-type research reactor, and for that purpose is financing an important programme of reconstruction and modernisation works. However, budgetary appropriations are not covering all aspects of the refurbishing and modernisation works and, in particular, do not yet consider the necessary upgrading of the radiation monitoring systems that are installed inside and outside the nuclear site. It is worth noting that a large supermarket and dwellings are situated in the vicinity of the nuclear institute accommodating the reactor. Therefore the main goal of the project is to establish a modern and reliable radiation monitoring and dosimetry network that is able to decrease the occupational exposure on-site and to guarantee the protection of people and the environment during future reactor operation. The project mainly consists of identifying, supplying and installing the nuclear institute with a number of equipment (dosimeters, spectrometers, monitors, etc). Training of personnel is part of the project.

Czech Republic 5812.02

5812.02.01 Re-assessment of the RPV Internals Stress State Based on Real Service Irradiation and Derived Mechanical Properties.

The principal aim of this project is to study changes in mechanical properties of actual internal VVER reactor components that have become available under the PHARE 2001 Project CZ 01.14.01 (which must be completed no later than November 2004) for the purpose of re-assessment of the RPV internals stress state and modification of inspection procedures and their frequency. These parts were obtained during the dismantling of Greifswald NPP Unit 1, which is of the VVER440/213 type. The principal tasks are to produce relevant (active) test specimens from the physical parts, to measure changes in mechanical properties and to perform safety analyses (calculations) based on the measured properties. At the end of the project the physical parts shall be safely stored by the Czech authorities for eventual future

use. The primary deliverable of the project is a database of material properties. A second deliverable is a reassessment of the impact on the expected residual lifetime of RPV and nuclear safety. This project would also use the handling and measurement facilities created under Project CZ 01.14.01. A strategy will be developed by the Beneficiary, Czech State Office for Nuclear Safety (SUJB), for regulatory use of the deliverables in regard to reviewing Periodic Safety Assessment Reports and the reformulation of safety inspection procedures.

5812.02.02 Assessment and Validation of Computer Codes Based on PSB-WWER Experimental Data. Computer Codes Validation.

The objective is to strengthen the level of nuclear safety of Czech nuclear power plants by introducing additional certainty into the decision-making processes of the State Office for Nuclear Safety (SUJB) by improving the level of confidence in the results of thermo-hydraulic computer codes for VVER-1000 power reactors. This project is a follow up of the PHARE 2001 project CZ 01.14.02, which must be completed no later than May 2004. There are three steps to the proposed project:

- Selection of suitable experimental data from the OECD-PSB project, (an in-kind contribution of the Czech participating organisation). Selection of suitable experimental data available from PSB test facility, as envisaged by the conclusions of the PHARE 2001 CZ 01.14.02 project;
- Analytical stage. Test computations. Uncertainty analyses of system computer codes. Scaling effect analyses;
- Realisation stage. Evaluation of the project as a whole from the codes validation point of view. Application of the results for SUJB regulatory purposes.

The regulatory function of SUJB in regard to licensing procedures will be enhanced through improved knowledge of the accuracy of computer codes modelling, including
- the degree of uncertainty with respect to the numerical results obtained thereby, and of influence of the scaling effects.

The principal deliverable of this project will be a summary report on improvements in the computer codes available for analysis of VVER-1000 NPPs. In the course of the project a strategy will be developed by the Beneficiary, the Czech State Office for Nuclear Safety (SUJB), for regulatory use of the deliverable.

5812.02.03 Supply of equipment for monitoring and inspection of radioactive waste

The Czech national agency for radioactive waste management (RAWRA) is - amongst other tasks - currently in charge of disposal operations of institutional radioactive waste at Litoměřice (Richard facility). At present, compliance of waste packages with acceptance criteria for the Richard repository is based on the documentation provided by the waste generator, on mass, dose-rate, surface contamination and on visual inspection. However, on account of the high variety of waste packages generated by the Czech institutions and notably by the Rež nuclear research centre, RAWRA is intending to perform additional and systematic checking in particular concerning the possible neutron and gamma-emitters content of the waste packages. The project will support RAWRA first through technical assistance for familiarisation with the characterisation methodologies being practised in the EU. In this context, training of RAWRA personnel in charge of the reception of waste packages at Litoměřice will be an important component of the project. In a second step, RAWRA will also receive appropriate measuring equipment and instruments.

Latvia 5812.03

5812.03.01 Upgrading of Early Warning System

This project comprises two components – one supplies, one services. In respect of the supplies component, an early warning monitoring system for on-line detection of radiation levels in the environment was established with (bi-lateral) financial and technical support from the Swedish Radiation Protection Authority and the Danish Emergency Management Agency. Subsequently this bi-lateral support has terminated. To ensure sustainability of the monitoring system, hardware is to be replaced, as the end of lifetime is approaching for certain critical items. Additionally data communication is to be strengthened between the Latvian Nuclear Regulatory Authority (NRA) and radiation monitors located at border-crossing points (some of these monitors are to be installed under a separate project under the PHARE 2003 National Programme for Latvia). The services component is intended to strengthen the institutional capacity of the Latvian NRA in discharging its duties in respect of the detection of illicit trafficking in nuclear materials. This project component will, through workshops and training sessions for NRA staff (and relevant staff from the Customs and the Border Guards services), facilitate and monitor the building up of institutional capacity. An operational manual would be produced for integrated inter-services work in detection and response.

Lithuania 5812.04

5812.04.01 Support to VATESI for safety culture and organisational issues specific to pre-shutdown phase of Ignalina NPP

The aim of this proposal is to provide regulatory assistance to the Lithuanian Nuclear Safety Authority (VATESI) to ensure that appropriate levels of safety culture are maintained at Ignalina Nuclear Power Plant (INPP) during the critical transition period from operation to decommissioning.

The official decision to shut down the nuclear power plant and especially the starting of the decommissioning process can have a detrimental effect on the motivation of personnel at INPP which in turn may affect the overall safety culture situation at the plant. The management of organisational change in such a situation is essential in order to reduce the potential negative impact of that changing environment.

Although the ultimate responsibility for maintaining appropriate levels of safety culture at INPP rests with the operating organisation, in this context any additional action strengthening VATESI capabilities to supervise INPP safety culture and staff motivation issues will increase operational safety of the plant during the transition from operation to decommissioning. This project should implement the following tasks:

- Identification of the critical safety culture areas that might be affected by decommissioning;
- Investigation of the key safety culture and organisational issues specific to the pre-shutdown stage of Ignalina NPP;
- Transfer of Member State experience and knowledge on the regulatory approach to safety culture and organisational issues specific to the pre-decommissioning stage of nuclear power plants;
- Preparation of a guide on the key safety culture and organisational issues critical for the pre-shutdown phase of Ignalina NPP.

The project should be oriented to practical aspects, taking into proper account the situation at INPP and the relevant EU experience in the field of safety culture and organisational issues specific to the transition period of from operation to decommissioning.

This activity is related to recommendations of type I from the Council report on nuclear safety in the context of enlargement.

5812.04.02 Support to VATESI and its TSOs in assessment of beyond design basis accidents for RBMK-1500 reactors

The aim of this proposal is to provide regulatory and TSO assistance to VATESI and its TSOs to improve their capability to assess safety related issues in case of beyond design basis accidents (BDBA) at INPP. This support should consider the particular characteristics of the RBMK-1500 reactors in the following areas: accident scenarios regarding fuel behaviour, neutronics and thermo-hydraulics of the reactor, criticality safety and radionuclide discharge to the environment.

It is the role of the operator of INPP to develop and to conduct the necessary calculations for various scenarios that go beyond the design basis accidents. And it is the role of the nuclear safety authority VATESI to verify, using the required tools, that the scope and the results of the analysis are acceptable from the safety point of view. VATESI capabilities are currently lacking in the area of BDBAs because efforts have been concentrated on establishing the licensing regime for design basis events. Furthermore, capabilities in the area of BDBA assessment and mitigation of severe accident sequences is now required particularly because INPP is preparing BDBA management guidelines and technical justification documents to complement the existing Emergency Operating Procedures (EOP).

One important result of this project will be the development of Regulatory Guides on the assessment and management of BDBAs for RBMK-1500 reactors (including a list of the transients that potentially could develop into BDBA with core damage and important accident phenomena that need to be addressed with accident progression models, evaluation methodology of the accident management principles, etc.).

This activity is related to recommendations of type I from the Council report on nuclear safety in the context of the enlargement.

5812.04.03 Establishment of a central processing and storage facility for institutional radioactive waste in Lithuania

The Lithuanian national radioactive waste management agency (RATA) was set up in 2001. One of its main assignments is to take over the responsibility of the management of institutional radioactive waste in Lithuania that was previously entrusted to the Institute of Physics of Vilnius. Up to now, institutional radioactive waste is collected and stored at the Institute of Physics pending the organisation of regular transports to Ignalina. From the safety and the security point of view, storage of institutional radioactive waste in the Institute premises is far from being perfect. The Lithuanian safety authorities are well aware of this situation, and therefore decided not to renew the license for storage beyond 2004. Under these circumstances, RATA considered necessary to construct a dedicated facility for the characterisation and storage of institutional radioactive waste at Maisiagalas where a disposal vault was operated in the past. Through a bilateral agreement with Sweden, a feasibility study aiming to define the design of the characterisation and storage facility to be constructed, was

completed in early 2003. The aim of the Phare project is to perform the detailed design of the facility, and then to construct and equip it. An important component of the project is to prepare all the documentation required by the safety authorities. Training of the RATA staff is also part of the project.

5812.04.04 Unallocated contingency

This programme contains an unallocated contingency of 0,3 M€ that can be made available to Lithuania, as needed, on the basis of an Exchange of Letters between the European Commission and the Government of Lithuania. The unallocated amount can be made available, in particular, in view of any needs arising to fund the completion of Community-funded activities linked to the installation of a Diverse Second Shutdown System (DSS) in Unit 2 of the Ignalina NPP.

The DSS project is currently being implemented through the following three PHARE-funded projects: (1) Installation of the DSS – main contract, whose beneficiary is INPP; (2) Management support at INPP for the implementation of the DSS, and (3) TSO support to VATESI for the review and licensing of the DSS. The DSS is expected to be fully operational by July 2004. This period is essentially covered by the three projects above. Although this schedule is realistic, the installation of the system is extremely complex, and, therefore, the risk of a yet unforeseen problem emerging that can lead to delays in its implementation, cannot be ruled out. The contingency budget of 0,3 M€ seeks to hedge against any such risk that could jeopardise the complete implementation of this important system.

Poland 5812.05

5812.05.01 Upgrading of the heat exchangers and ion-exchangers at the Maria research reactor to reduce the possible radioactive release into the environment

The Maria RR is a high flux pool-type reactor (30 MWth) which has been operating since 1974. The primary cooling system is connected with the secondary circuit through vertical U-tube heat exchangers. Due to aging and corrosion, leakage from the primary to the secondary circuit occurs 3-7 times per year, leading thereby to the releases of radioactivity into the environment, since the clean-up system (ion-exchange resins) of the secondary circuit is no more operating. The project consists first of upgrading the heat exchangers (source of the contamination of the secondary circuit) and then of refurbishing the ion-exchangers (source of release of radioactivity into the environment).

Romania 5812.06

5812.06.01 Romanian Regulatory Emergency Response Centre

This project aims at technical consolidation of the emergency preparedness capabilities of the Romanian National Commission for Nuclear Activities Control (CNCAN). The project comprises two components: one providing assistance in the form of services, one, supplies. The services' component covers

- Identification and assessment of the level of equipment endowment for the emergency response centre
- training of staff and production of training materials for those nominated to operate the centre
- establishing a strategy for developing TSO support to the response centre, this covers both the future activity of the CNCAN TSO and other Romanian TSOs.

The supplies component covers physical endowment of the Centre with basic hardware as identified in the first part of this project and the appropriate software to commission the installation, as well as the requisite communication links, e.g. high speed Internet links and connections to the governmental data transmission networks.

5812.06.02 Technical assistance to Romania in establishing the national agency for radioactive waste management (ANDRAD)

In early 2003, a national agency for radioactive waste management (ANDRAD) was created in Romania. However, this organisation has not yet been properly staffed and its assignments and role remain unclear. Therefore the aim of the project is to support ANDRAD so that this agency can become in the short term an organisation fully comparable to the other radioactive waste management agencies existing in the EU. Concretely the project will consist of improving the scope and assignments of ANDRAD notably concerning the operation of disposal facilities for radioactive waste. It will also help ANDRAD to define an optimal strategy for radioactive waste management in Romania. An important element of this strategy will be to assess the existing Romanian nuclear facilities in the field of radioactive waste management against current and future needs. This activity will be conducted through the implementation of system studies. Basically this project should establish a technical and economic basis for the identification of future investment projects that could be supported by domestic funds or by the international community. Designing a characterisation laboratory for radioactive waste is part of the investigations to be carried out.

This project will be closely co-ordinated with bilateral support to be provided by the Netherlands in this domain in 2004.

5812.06.03 Upgrading of the Baita Bihor repository for institutional radioactive waste in Romania

Since 1985, institutional radioactive waste is disposed in the Baita Bihor repository, which consists of chambers excavated in a former exploratory drift. This repository is located in the Northwest Carpathian Mountains. There are already 3600 drums of radioactive waste that have been disposed of at Baita Bihor. The disposal facility has never been completely fitted out. Therefore, disposal operations are not performed according to the "best practices" in the EU. A priori, the complete refurbishment and modernisation of the repository is expected to be quite costly taking into account the number of defective items which are affecting the safe operation of the repository (e.g. no reception and storage building for in-coming waste, existing electrical and ventilation systems outdated and worn, drainage system broken, weak physical protection system, etc). Therefore the aim of the project is to perform an assessment of the situation at Baita Bihor placing emphasis on the most urgent actions to be implemented. Based on that identification, equipment and instrumentation will be purchased and installed. Another goal of the project is to complete the Preliminary Safety Analysis Report that has been initiated through a previous 2002 Phare project.

5812.06.04 Characterisation of Radioactive Waste at the Cernavoda NPP

At present, radioactive waste generated during operation of the Cernavoda NPP is simply stored in drums and tanks pending further treatment and conditioning. The criteria for selecting the most appropriate treatment and conditioning technologies are lacking as long as there is no national strategy established for operating radioactive waste (see project 5812.06.02). However, the drawing up of any strategy requires first the characterisation of operating radioactive waste from the radiological viewpoint. At present, the Romanian utility SNN has neither the expertise nor the equipment to do so. The project will support SNN first through technical assistance for familiarisation with the characterisation methodologies being practised in the EU. In a second step, SNN will also receive appropriate measuring equipment and instruments.

Exceptionally, this project will support a private sector operator, since it cannot be expected to fund radioactive waste management issues at its current level of income, which is largely determined by the low, non-market level of electricity prices fixed by the Romanian government.

Slovakia 5812.07

5812.07.01 Technical support to the Slovak Republic in establishing the National Agency for Disposal of Radioactive Waste

The overall aim of the project is to improve radioactive waste management in Slovakia through the setting-up of a national agency with a legal status, scope, and financial resources that are comparable to similar agencies existing in the EU. The project will consist of defining a clear assignment of responsibilities of the new agency especially for disposal operations. It will also contribute to establishing a financing mechanism for the new agency as well as a communication strategy with the public (e.g. degree of involvement of the public in the decision making process regarding radioactive waste disposal). Besides, the project will consist in the selection, purchase and installation of equipment, which will enable the new agency to make random checks of the compliance of waste packages with the Mochovce acceptance criteria for disposal. Finally the project includes the delivery of software and the organisation of training courses in order to familiarise the members of the new agency with safety assessment of radioactive waste repositories. It is worth noting that this project will be performed contemporaneously with the creation of the new agency.

Slovenia 5812.08

5812.08.01 Assistance in the development of conceptual design for LILW repository in Slovenia

The Slovenian Radioactive Waste Management Agency (ARAO) is currently in the process of identifying five potential sites for constructing a repository for short-lived radioactive waste (mainly operational radioactive waste arising from the Krsko NPP operation). Acceptance criteria for disposal will be defined on the basis of the characteristics of each of these sites. By 2005, a final decision will have been taken and one of the five sites selected.

Up to now, due to lack of space, the Krsko NPP is processing its radioactive waste using technologies that are enabling high volume reduction factors (incineration, drying of spent ion-exchange resins and evaporator concentrates). Processing operations have been performed for years despite the absence of any disposal criteria. This project will provide support for matching the existing characteristics of the Krsko NPP radioactive waste with the future acceptance criteria relative to each of the five potential disposal sites being identified. The project will help ARAO to select the site and to design the future Slovenian repository for short-lived radioactive waste.

1.3. Project Fiches

The project fiches provide further detail with regard to the contents of the above-listed actions (see Annex 1).

1.4. Assumptions and risks

The programme assumes that the beneficiary countries will maintain their efforts to ensure a high level of nuclear safety and to implement the recommendations of the June 2001 Council Report on Nuclear Safety in the Context of Enlargement. The Peer Review Status Report, established by the Council's Atomic Questions Group and its ad-hoc formation Working Party on Nuclear Safety on 5 June 2002, found that candidate countries are clearly committed to fulfil the recommendations set out in the Council Report, both for nuclear power plants and other types of installations. The status report also noted that all candidate countries had accepted the recommendations. This programme assumes that the beneficiary countries will continue to pay sufficient attention and devote appropriate effort to implementing the supported projects also – where and when applicable – under the EDIS in a time frame reaching beyond accession.

Whilst there are no identifiable risks inherent in the tasks to be fulfilled under the various projects, an overall risk to the programme is that continued nuclear safety assistance involves the danger to create dependency on this side of the beneficiary. Special regard has to be directed towards the way in which the beneficiary organisations will sustain the results of the projects. In the cases of regulatory assistance, emphasis needs to be laid on the value of transferring know-how to the recipient and avoiding the replacement of functions in the sphere of responsibility of the beneficiary organisation through activities of the contractor.

1.5. Conditionalities

The effective launching of some of the projects listed above is subject to particular conditions that are described, in more detail, in the respective project fiches. In particular, projects 5812.02.01 and 5812.02.02 cannot be contracted in advance of the delivery to the Nuclear Research Institute (Rez, the Czech Republic) of components from the dismantling of the Greifswald NPP (as foreseen in the PHARE 2001 Project, CZ 01.14.01), and the completion of the International Workshop foreseen in the PHARE 2001 Project, CZ 01.14.02, respectively. The completion of both of these projects must be no later than November 2004.

2. BUDGET (€)

<i>Country</i>	<i>Implementing Agency</i>	<i>Code</i>	<i>Co-Financing</i>	<i>Total Budget</i>	<i>Total PHARE Budget</i>
Bulgaria	CFCU	5812.01	313,000	1,350,000	1,037,000
Project 1		5812.01.01	313,000	1,350,000	1,037,000
CzechRepublic	CFCU	5812.02	100,000	1,930,000	1,830,000
Project 1		5812.02.01		680,000	680,000
Project 2		5812.02.02		800,000	800,000
Project 3		5812.02.03	100,000	450,000	350,000
Latvia	CFCU	5812.03	107,025	528,275	421,250
Project 1		5812.03.01	107,025	528,275	421,250
Lithuania	CFCU	5812.04	450,000	3,177,000	2,727,000
Project 1		5812.04.01		427,000	427,000
Project 2		5812.04.02		650,000	650,000
Project 3		5812.04.03	450,000	1,800,000	1,350,000
Project 4		5812.04.04		300,000	300,000
Poland	CFCU	5812.05	241,000	964,000	723,000
Project 1		5812.05.01	241,000	964,000	723,000
Romania	CFCU	5812.06	675,000	3,560,000	2,885,000
Project 1		5812.06.01	125,000	600,000	475,000
Project 2		5812.06.02		560,000	560,000
Project 3		5812.06.03	300,000	1,500,000	1,200,000
Project 4		5812.06.04	250,000	900,000	650,000
Slovakia	CFCU	5812.07	85,000	940,000	855,000
Project 1		5812.07.01	85,000	940,000	855,000
Slovenia	CFCU	5812.08	100,000	500,000	400,000
Project 1		5812.08.01	100,000	500,000	400,000
TOTAL			2,071,025	12,949,275	10,878,250

3. IMPLEMENTATION ARRANGEMENTS

This Financing Proposal is for a horizontal programme. The projects will be implemented through the PHARE national programme structures. This Financing Proposal will be split on a country-by-country basis leading to eight separate Financing Memoranda, as set out in the table above.

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.

Provisions on joint or parallel co-financing are contained in the budgetary paragraphs of the individual project fiches. The level of co-financing per project is indicated in the proposal under Point.5 Budget.

3.1. Implementation

a.) Financial and Project Management by the Candidate Country

The programme will be managed in accordance with the PHARE Extended Decentralised Implementation System (EDIS) procedures as set down in the EDIS Accreditation Decision* and the Agreement on the Implementation of EDIS* (EDIS Implementation Agreement; EIA) concluded between each country and the Commission³. Prior to the conclusion of said Agreement, implementation will exceptionally follow PHARE Decentralised Implementation System (DIS) procedures⁴. Extended Decentralisation will, however, apply from the date of accession at the latest.

The National Aid Co-ordinator (NAC) of each of the eight countries (see table above) will have overall responsibility for 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 EDIS Implementation Agreement* and/or 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.

² Taxes are not an element eligible for co-financing

* working title!

* working title!

³ in accordance with the rules set down in the Council Regulation 1605/2002 (Financial Regulation), in particular Art. 164, Commission Regulation 2342/2002 (Implementing Rules of the Financial Regulation) and the annex of Council Regulation 1266/1999

⁴ 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

* working title!

The NAC and the NAO shall be jointly responsible for co-ordination between PHARE (including PHARE CBC), ISPA and SAPARD as well as the Structural and Cohesion Funds.

The National Fund (NF) in the Ministry of the respective countries, 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.

The National Fund (NF) in each of the countries respectively is as follows:

Bulgaria – Ministry of Finance
Czech Republic – Ministry of Finance
Latvia – Ministry of Finance
Lithuania – Ministry of Finance
Poland – Ministry of Finance
Romania – Ministry of Public Finances
Slovakia – Ministry of Finance
Slovenia – Ministry of Finance

Deadline for contracting and execution of contracts, programming deadline.

All contracts for the acceding countries must be concluded by 30 November 2005

Execution of all contracts for the acceding countries must end by 30 November 2006.

According to Art.33(3) of the Act of Accession, no extensions to the contracting period are permitted for Acceding Countries. For Bulgaria and Romania, Art. 166(2), 2.sentence is fully applicable.

Clearance of Accounts Procedure and Recovery of funds

A clearance-of-accounts procedure in line with Art. 53 para 5 of the Financial Regulation⁵ and Art. 42 of the Implementing Rules to the Financial Regulation⁶ will be put in place.

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

⁵ Council Regulation 1605/2002 of 25 June 2002

⁶ Commission Regulation 2342/2002 of 23 December 2002

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.

The Commission will recover any funds not used by the expiry date of the programme. A final written declaration with supporting documentation shall be issued by the NAO two 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.

Financial Flows

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the relevant countries 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 (or "in a bank agreed in advance with the Commission").

a) Transfer of Funds to the National Fund:

A first transfer of up to 20% of the funds to be managed locally, representing pre-financing 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 Programme Authorising Officers (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 expenditure).

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.

b) Transfer of Funds to the Implementing Agencies:

The National Fund will transfer funds to the nominated Implementing Agency in each country, 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/Implementing Agency there will be no transfer of funds from the NF to the CFCU/Implementing Agency. 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.

Interest

In principle, all bank accounts will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme.

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

Bulgaria

CFCU

Czech Republic:

CFCU

Latvia:

CFCU, Ministry of Finance

Lithuania:

CPMA, Ministry of Finance

Poland:

CFCU

Romania:

CFCU, Ministry of Finance

Slovakia

CFCU

Slovenia:

CFCU

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

Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive⁷ 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 documented⁸.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive⁹ must be documented¹⁰.

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.

4. MONITORING AND EVALUATION

Project implementation of this programme will be monitored through the Joint Monitoring Committee (JMC). The JMC will include the NAO, the NAC and the Commission. The JMC

⁷ 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

⁸ in Annex EIA to the corresponding investment project fiche

⁹ DIR 92/43/EEC; OJ 206/7; 22.7.1992

¹⁰ in Annex Nature Conservation to the corresponding investment project fiche

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 FM and the Accession Partnership. The JMC may recommend a change of priorities and/or the reallocation 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 the 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 that these are effected. The SMSC will report to the JMC, to which it will submit overall detailed reports on all PHARE financed programmes.

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 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.

The competent national financial control authority with respect to the implementation of the programme shall carry out appropriate financial control.

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 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,

(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 1681/94¹⁵.

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 2 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, as long as the Extended Decentralisation System is not yet applicable to the Implementing Agencies in the Candidate Country concerned, 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 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) N°. 2185/96.

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 / 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 described in the Annex Visibility/Publicity.

7. SPECIAL CONDITIONS

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

¹⁵ OJ L 178; 12.7.94; p. 43-46

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ANNEX D

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.

