ADDENDUM TO FINANCING MEMORANDUM BG9803
Cross Border Co-operation programme between Bulgaria and Greece

Within the Framework of Phare assistance to Bulgaria the Addendum outlined below has been made under the 1998 budget of Cross Border Co-operation programme between Bulgaria and Greece.

Article 1 – Nature and Subject

The Financing Memorandum BG9803 is modified in accordance with the Implementation Arrangements provided in the Annex.

Article 2

All the other Terms and Conditions of the original Financing Memorandum BG9803 remain unchanged.

Article 3 – Number of Copies

The Addendum to this Financing Memorandum is drawn up in duplicate in the English language.

Article 4 – Entry into Force

The Addendum to the Financing Memorandum BG9803 shall enter into force on the date of signature by both parties.

Sofia
Date, 28.12.2000

The RECIPIENT,

Sofia
Date, 28.12.2000

For THE COMMUNITY,

[Signature]

Jacques Wunenburger
Head of Delegation
FRAMEWORK AGREEMENT

The Commission of the European Communities, hereinafter referred to as “THE COMMISSION”, acting for and on behalf of the European Economic Community, hereinafter referred to as “THE COMMUNITY”

of the one part, and

The Republic of Bulgaria, hereinafter referred to as “THE RECIPIENT”,

of the other part,

and together jointly referred to as “THE CONTRACTING PARTIES”

Whereas the Bulgarian Government is eligible to be a recipient under the Community’s aid programme PHARE as provided for in the European Community Council Regulations no. 3906/89 of December 18, 1989 and 2698/90 of September 17, 1990.

Whereas it is fitting that the technical, legal and administrative framework within which MEASURES financed in 1990 under the Community’s aid programme shall be executed, should be laid down.

HAVE AGREED AS FOLLOWS:

ARTICLE 1

In order to promote cooperation between the Contracting Parties with a view to supporting the process of economic and social reform in Bulgaria, the Contracting Parties agree to implement MEASURES in the field of financial, technical and other forms of cooperation as specified in the said Regulation, which shall be financed and implemented within the technical, legal and administrative framework laid down in this Agreement. The specific details of each MEASURE (or set of MEASURES) shall be set out in a memorandum to be agreed between the Contracting Parties (hereinafter referred to as “the financing memorandum”).

The Bulgarian Government takes all necessary steps in order to ensure the proper execution of all measures.

ARTICLE 2

Each MEASURE which is financed within the framework of this Agreement shall be implemented in accordance with the General Conditions set out in Annex A hereto, which shall be deemed to be incorporated in each financing memorandum.

The financing memorandum may vary or supplement the General Conditions as may be necessary for the implementation of the MEASURE in question.
RECIPIENT in order to facilitate the launching of THE MEASURE. Other payment instalments shall be made available, at the request of THE RECIPIENT, subject to the same conditions set out in the paragraph 2 above.

TITLE II - PROCUREMENT

ARTICLE 4 - GENERAL

The procedure to be followed for the conclusion of works, supplies, and technical cooperation contracts, shall be laid down in the financing memorandum following the principles set out below.

ARTICLE 5 - CONDITIONS OF PARTICIPATION

1. Save under the conditions of art.6 THE COMMISSION and THE RECIPIENT take the MEASURES necessary to ensure equality of conditions for participation in such contracts, in particular by publication, in due time of invitations to tender. Such publication is to be made for the Community at least in the Official Journal of the European Communities and for the beneficiary states in the appropriate official journal.

2. General conditions of contracts shall be drawn up in conformity with the models in international use, such as the general regulations and conditions for supply contracts financed from PHARE funds.

ARTICLE 6 - DEROGATION FROM STANDARD PROCEDURES

Where the urgency of the situation is recognized or where justified on account of the nature, minor importance, or particular characteristics of certain MEASURES, (for example two stage financing operations, multi-phased operations, particular technical specifications, etc.), and related contracts, THE RECIPIENT may, in agreement with THE COMMISSION, exceptionally authorize:

- the placing of contracts after restricted invitations to tender;
- the conclusion of contracts by direct agreement;
- the performance of contracts through public works departments.

Such derogation shall be laid down in the financing memorandum.

ARTICLE 7 - AWARD OF WORKS AND SUPPLIES CONTRACTS

THE COMMISSION and THE RECIPIENT shall ensure that for every operation, the offer selected is economically the most advantageous, particularly in view of the qualifications and guarantees offered by the tenderers, the cost and quality of the services, the nature and conditions for execution of the works or supplies, their cost of utilization and technical value.

Results of the invitations to tender shall be published in the Official Journal of the European Communities as quickly as possible.

ARTICLE 8 - TECHNICAL COOPERATION CONTRACTS

1. Technical Cooperation contracts, which may take the form of studies, supervision of works or technical assistance contracts, shall be concluded after direct negotiation with the consultant or when technical, economic or financial reasons so justify, following invitation to tender.

2. Contracts shall be drawn up, negotiated and concluded either by THE RECIPIENT or by THE COMMISSION when the financing memorandum so provides.
TITLE III - GRANT OF FACILITIES

ARTICLE 9 - GENERAL PRIVILEGES

Personnel taking part in Community financed MEASURES and members of their immediate family may be accorded no less favourable benefits, privileges and exemptions than those usually accorded to other expatriates employed in the state of THE RECIPIENT under any other bilateral or multinational agreement or arrangements for economic assistance and technical cooperation programmes.

ARTICLE 10 - ESTABLISHMENT, INSTALLATION, ENTRY AND RESIDENCE FACILITIES.

In the case of works, supply or service contracts, natural or legal persons eligible to participate in tendering procedures shall be entitled to temporary installation and residence where the importance of the contract so warrants. This right shall be acquired only after the invitation to tender has been issued and shall be enjoyed by the technical staff needed to carry out studies preparatory to the drawing up of tenders; it shall elapse one month after the contractor is designated.

THE RECIPIENT shall permit personnel taking part in works, supplies or services contracts financed by the Community, and members of their immediate family, to enter the state of THE RECIPIENT, to establish themselves in the State, to work there and to leave the said State, as the nature of the contract so justifies.

ARTICLE 11 - IMPORT AND RE-EXPORT OF EQUIPMENT

THE RECIPIENT shall grant the permits necessary for the importation of professional equipment required to execute THE MEASURE, subject to existing laws, rules and regulations of THE RECIPIENT.

THE RECIPIENT shall further grant natural and legal persons who have executed works, supplies or services contracts the permits required to re-export the said equipment.

ARTICLE 12 - IMPORTS AND EXCHANGE CONTROL

For the execution of MEASURES, THE RECIPIENT undertakes to grant import authorizations and authorizations for the acquisition of the foreign exchange, and to apply national exchange control regulations without discrimination between Member States of the Community, Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and the Former Yugoslav Republic of Macedonia.

THE RECIPIENT shall grant the permits necessary to repatriate funds received in respect of THE MEASURE, in accordance with the foreign exchange control regulations in force in the state of THE RECIPIENT.

ARTICLE 13 - TAXATION AND CUSTOMS

1. Taxes, customs and import duties shall not be financed out the EEC Grant.

2. Imports under supply contracts concluded by the authorities of THE RECIPIENT and financed out of the EEC Grant shall be allowed to enter the state of THE RECIPIENT without being subject to customs duties, import duties, taxes or fiscal charges having equivalent effect.

- THE RECIPIENT shall ensure that the imports concerned will be released from the point of entry for
ANNEX B

ARBITRATION

Any dispute between the Contracting Parties, arising out of the Framework Agreement or a financing memorandum, which is not settled by applying the procedures laid down in Article 18 of the general conditions relating to financing memorandum, shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

The parties to such arbitration shall be THE RECIPIENT on the one side and THE COMMISSION on the other side.

The Arbitral Tribunal shall consist of three arbitrators appointed as follows:

-one arbitrator shall be appointed by THE RECIPIENT

-a second arbitrator shall be appointed by THE COMMISSION

-the third arbitrator (hereinafter sometimes called "THE UMPIRE") shall be appointed by agreement of the parties or, if they shall not agree, by the Secretary-General of the United Nations.

If either side fail to appoint an arbitrator, such arbitrator shall be appointed by THE UMPIRE.

Should any arbitrator in accordance with this provision resign, die or become unable to act, another arbitrator shall be appointed in the same manner as the arbitrator whose place he takes; such successor shall have all the powers and duties of the original arbitrator.
<table>
<thead>
<tr>
<th>Identification Code</th>
<th>Programme Title</th>
<th>Total Phare allocation (in EUR)</th>
<th>Exact amount of the 1st advance paid (in EUR)</th>
<th>Percentage of the four replenishments</th>
</tr>
</thead>
<tbody>
<tr>
<td>BG 9803</td>
<td>Cross Border Cooperation programme between Bulgaria and Greece</td>
<td>51.000.000</td>
<td>10.200.000</td>
<td>20%</td>
</tr>
<tr>
<td>BG 9804 – 9810/9813</td>
<td>National Programme for Bulgaria</td>
<td>62.600.000</td>
<td>11.462.600</td>
<td>20%</td>
</tr>
<tr>
<td>BG 9812</td>
<td>Pre-Ins Facility for Bulgaria</td>
<td>10.500.000</td>
<td>2.086.000</td>
<td>20%</td>
</tr>
<tr>
<td>CZ 9804</td>
<td>Cross Border Cooperation programme between the Czech Republic and Germany</td>
<td>7.000.000</td>
<td>1.400.000</td>
<td>20%</td>
</tr>
<tr>
<td>CZ 9805</td>
<td>Cross Border Cooperation programme between the Czech Republic and Austria II</td>
<td>2.900.000</td>
<td>580.000</td>
<td>20%</td>
</tr>
<tr>
<td>CZ 9806 - 9813</td>
<td>National Programme for the Czech Republic</td>
<td>22.450.000</td>
<td>3.592.000</td>
<td>20%</td>
</tr>
<tr>
<td>ES 9803 – 9806/9809</td>
<td>National Programme for Estonia</td>
<td>18.913.500</td>
<td>3.026.160</td>
<td>20%</td>
</tr>
<tr>
<td>ES 9807</td>
<td>Baltic Sea Region Cross Border Cooperation programme for Estonia</td>
<td>2.500.000</td>
<td>500.000</td>
<td>20%</td>
</tr>
<tr>
<td>ES 9808</td>
<td>Large Scale Infrastructure Facility for Estonia, part II</td>
<td>5.000.000</td>
<td>1.000.000</td>
<td>20%</td>
</tr>
<tr>
<td>HU 9803 – 9810/9812</td>
<td>National Programme for Hungary</td>
<td>67.000.000</td>
<td>13.121.000</td>
<td>20%</td>
</tr>
<tr>
<td>HU 9811</td>
<td>Large Scale Infrastructure Facility for Hungary, part II</td>
<td>16.000.000</td>
<td>3.200.000</td>
<td>20%</td>
</tr>
<tr>
<td>LE 9803 – 9809/9813</td>
<td>National Programme for Latvia</td>
<td>18.637.000</td>
<td>3.624.400</td>
<td>20%</td>
</tr>
<tr>
<td>LE 9811</td>
<td>Baltic Sea Region Cross Border Cooperation programme for Latvia</td>
<td>2.500.000</td>
<td>500.000</td>
<td>20%</td>
</tr>
<tr>
<td>LE 9812</td>
<td>Pre-Ins Facility for Latvia</td>
<td>4.000.000</td>
<td>800.000</td>
<td>20%</td>
</tr>
<tr>
<td>LI 9803 – 9807/9811</td>
<td>National Programme for Lithuania</td>
<td>29.100.000</td>
<td>4.947.000</td>
<td>20%</td>
</tr>
<tr>
<td>LI 9808</td>
<td>Baltic Sea Region Cross Border Cooperation programme for Lithuania</td>
<td>4.000.000</td>
<td>800.000</td>
<td>20%</td>
</tr>
<tr>
<td>LI 9809</td>
<td>Pre-Ins Facility for Lithuania</td>
<td>4.000.000</td>
<td>800.000</td>
<td>20%</td>
</tr>
<tr>
<td>LI 9810</td>
<td>Large Scale Infrastructure Facility for Lithuania, part II</td>
<td>4.000.000</td>
<td>800.000</td>
<td>20%</td>
</tr>
<tr>
<td>PL 9804 – 9808/9812</td>
<td>National Programme for Poland</td>
<td>64.667.000</td>
<td>9.000.000</td>
<td>20%</td>
</tr>
<tr>
<td>PL 9810</td>
<td>Baltic Sea Region Cross Border Cooperation programme for Poland</td>
<td>4.000.000</td>
<td>800.000</td>
<td>20%</td>
</tr>
<tr>
<td>PL 9811</td>
<td>Coal And Steel Social programme for Poland</td>
<td>30.000.000</td>
<td>5.700.000</td>
<td>20%</td>
</tr>
<tr>
<td>RO 9803 – 9807/9810</td>
<td>National Programme for Romania</td>
<td>106.600.000</td>
<td>19.072.800</td>
<td>20%</td>
</tr>
<tr>
<td>RO 9809</td>
<td>Pre-Ins Facility for Romania</td>
<td>16.000.000</td>
<td>3.200.000</td>
<td>20%</td>
</tr>
<tr>
<td>SR 9806 – 9811/9815</td>
<td>National Programme for Slovakia</td>
<td>45.900.000</td>
<td>8.929.000</td>
<td>20%</td>
</tr>
</tbody>
</table>
For inclusion of the twinning arrangements in each national budget, it is proposed that the ‘Implementation Arrangements’ section of each of the aforesaid 1998 PHARE financing memoranda should be modified as follows:

1. New paragraph no 3: "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 1998\(^1\). Funds will be transferred following requests from the NAO. A payment of up to 10.200.000 €\(^2\) of the funds to be managed locally has been transferred to the NF following signature of the Financing Memorandum and the Financing Agreements (Fas) between the NF and the Implementing Agencies (IAs/Central Finance and Contracts Unit (CFCU). The provisions foreseen in articles 2 and 13 of the MoU on the NF must also be met. The provisions in the articles titled “Implementing Agency and Programme Authorising Officer” and “Bank Accounts” of the FA must also be met. Furthermore, the NAO must submit to the Commission a narrative description of the flow of transactions between the NF and the IAs/CFCU.”

2. The fourth paragraph should read as follows:

“Four replenishments will be made of up to 20% of the funds to be managed locally or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 10% of the budget has been disbursed by the Implementing Agencies (IA) and the Central Financing and Contracting Unit (CFCU). The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the IAs exceeds 10% of the total budget in force of the commitment. In the event that the previous advance(s) is/are lower than 20% of the budget to be managed locally, the first advance payment following the signature of this addendum to the Financing Memorandum will be adjusted. This modification must be reflected in the corresponding request for funds submitted by the National Fund. Exceptionally the NAO may request an advance payment of more than 20% in accordance with the procedures laid down in the aforesaid Memorandum of Understanding”.

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\(^1\) All Phare countries signed the MoU for the establishment of the National Fund in 1998.
\(^2\) The first advance payment as per table.
ANNEX ON
INFORMATION AND PUBLICITY FOR THE PHARE PROGRAMME OF THE
EUROPEAN COMMUNITIES

1. Objective and scope

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

2. General principles

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

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

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


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

Information events

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

Information material

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

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

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

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

5. Special arrangements concerning billboards, commemorative plaques and
posters

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

Billboards

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