FINANCING MEMORANDUM

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

on the one part, and

The Government of the Republic of 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: BG 9904
Title: 1999 Cross-Border Cooperation Programme between Bulgaria and Greece
Duration: Until 31 December 2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of € 25 million hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 31 December 2001 subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is 31 December 2002 with the exception of project BG9904.03.01 (closing of uranium mines in Eleshnitsa and Dospat) for which the deadline for disbursement is 31 December 2005. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.
ARTICLE 4 - ADDRESSES

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

for the COMMUNITY:

Delegation of the European Commission to Bulgaria
Interpred
World Trade Center
36, Blvd. Dragan Tsankov
1040 Sofia
Bulgaria

Tel.: (+359) 2-97 33 240
Fax: (+359) 2-97 33 872

for THE RECIPIENT:

Ministry of Foreign Affairs
Department of European Integration
2 AI. Jendov Str.
1113 Sofia
Bulgaria

Tel.: (+359) 2-73 99 22
Fax: (+359) 2-971 2413

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 Sofia
Date 30.12.1999

for THE RECIPIENT

Mrs. N Mikhailova
Minister of Foreign Affairs
National Phare Coordinator

for THE COMMUNITY

Mr. J. Wunenburger
Head of European Commission
Delegation to the Republic of Bulgaria

Annex 1 Framework Agreement (Annexes A & B)
Annex 2 Special Provisions (Annex C)
ANNEX 2       SPECIAL PROVISIONS

1.       OBJECTIVES AND DESCRIPTION

1.0  Objectives

The general objectives of the programme are:
• to promote economic and social cohesion in the CBC region;
• to promote co-operation with the CEEC regions bordering the European Union, and thus to help these border regions to overcome specific development problems stemming from their relative isolation in the national economy.

The specific objectives of the programme are:
• to improve major transport infrastructure in Southern Bulgaria (Sub-programme 1);
• to assure high reliability of telecommunication connections between Bulgaria and Greece (Sub-programme 2);
• to rehabilitate and protect the environment of radiological contamination in Southern Bulgaria by the closure of uranium mining and processing activities and by establishing a regional monitoring network (Sub-programme 3);
• to prepare future projects in the transport, environment and regional development sectors in order to be financed by future the Phare CBC Programme or other EC funds (Sub-programme 4).

1.1  Sub-Programme 1:  Major Transport Infrastructure Projects

• Project 01.01:  Electrification of Dupnitzia Kulata railway line (corridor Sofia-Thessaloniki)

• Project 01.02:  Rehabilitation of major roads in the CBC region : E79 (corridor Sofia-Thessaloniki), E85 (corridor Sofia-Alexandroupolis), reopening of access road to the new border crossing at Illinden (link Goce-delcev – Drama)

• Special conditions

1.  Railway and road design is consistent with the EC acquis.
2.  For the railway project, all measures for the operation of the railways during construction will be taken to allow maximum safety of the workers and to limit as much as possible the duration of the construction period. This includes measures like operation of passenger bus shuttles on the sections under construction during day time. All measures will be taken to ensure maximum co-ordination with other investment which may be undertaken on the same railroad over the same time.
3.  Special consideration will be given to measures in favour of road safety (including sustainable road marking, road signs, guard rails, safety fencing) and environment (including measures to reduce impact both during construction and after construction).
4.  Land acquisition is financed by the Bulgarian authorities. The Bulgarian authorities undertake to notify to the European Commission before the signature of the works contracts that related land acquisitions have been completed.
5.  Security arrangements at the border, especially for construction through the restricted area will be specified in the tender documents.
6.  The General Road Administration and the Bulgarian State Railways will make all data and inspection equipment fully available for the consultants in charge to complete the detailed design.
1.2 Sub-Programme 02: Telecommunications

- **Project 02.01** Installation of optic cable Haskovo – Kavala

**Special conditions**

1. Preliminary design and technical requirements are in full compliance with the European standards – ITU-T, ETSI, IEC, and Bulgarian law, and agreed with Greek partner - OTE.
2. Security arrangements at the border, especially for construction through the restricted area will be specified in the tender documents.
3. Access to the site will be assured by Bulgarian Telecommunication Company

1.3 Sub-Programme 03: Environment

- **Project 03.01** Closing of uranium mines in Eleshnitsa and Dospat.

**Special conditions**

2. Right of access to the sites will be granted by Ecoengineering Ltd and by the relevant Uranium Mines companies. The above mentioned institutions will make all data fully available to the tenderer to complete the detailed design.
3. Special safety measures will be considered and will be subject of control of the Ministry of Environment and Water and the Ministry of Health.
4. All works will be tendered simultaneously.

1.4 Sub-programme 4: Preparation of future projects/Programme management

- **Project 04.01** E79 motorway studies (2nd part)
- **Project 04.02** Preparation of Environment Projects
- **Project 04.03** Preparation of Regional Development Projects
- **Project 04.04** Programme Management (technical assistance to the IA and PIUs; IA operational costs

1.5 An environmental impact assessment was carried out for all investment projects.
2. **BUDGET**

The EC PHARE CBC contribution to the 1999 Programme is 25 Meuro. A breakdown of funds by sub-programmes is given in the table below.

<table>
<thead>
<tr>
<th>SUB-PROGRAMME</th>
<th>Project</th>
<th>Funds (M€)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SUB-PROGRAMME 1</strong></td>
<td>Project 01.01 Electrification of Dupnitsa Kulata railway line</td>
<td>5.2</td>
</tr>
<tr>
<td><strong>SUB-PROGRAMME 2</strong></td>
<td>Project 02.01 Installation of optic cable Haskovo – Kavala</td>
<td>2.5</td>
</tr>
<tr>
<td><strong>SUB-PROGRAMME 3</strong></td>
<td>Project 03.01 Closing of uranium mines in Eleshnitsa and Dospat.</td>
<td>12</td>
</tr>
<tr>
<td><strong>SUB-PROGRAMME 4</strong></td>
<td>Project 04.01 E79 motorway study</td>
<td>5.3</td>
</tr>
<tr>
<td></td>
<td>Project 04.02 Preparation of environment projects</td>
<td></td>
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<td></td>
<td>Project 04.03 Preparation of regional development projects</td>
<td></td>
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<td></td>
<td>Project 04.04 Programme management</td>
<td></td>
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<tr>
<td>TOTAL</td>
<td></td>
<td><strong>25</strong></td>
</tr>
</tbody>
</table>

3. **IMPLEMENTATION ARRANGEMENTS**

3.1 **Joint Cooperation Committee**

A Joint Cooperation Committee (JCC), previously known as the Joint Programming and Monitoring Committee, has been established on the basis of the Framework Agreement signed between Bulgaria and Greece.

The co-chairmen of the Committee are:
- on the Bulgarian side: the Minister of Regional Development
- on the Greek side: the General Secretary of the Ministry of National Economy for Investment and Regional Development

The co-chairmen define the composition of their respective delegations to the Committee and may set up special working groups consisting of representatives of local authorities and representatives of ministries and institutions concerned.

The CBC IA and the project beneficiary institutions defined below are members of the Bulgarian delegation.

The CBC IA established in the Ministry of Regional Development acts as the Secretary of the Committee.
The European Commission representatives participate in the meetings of the Committee. They examine the conformity with EU rules, requirements of proposed measures and projects, and of implementation arrangements. They also take a view on the complementarity of project proposals with respect to INTERREG.

The ordinary meetings of the Committee should be held every six months in either of the countries concerned. Extraordinary meetings may be required during the period of preparation of programmes and annual financing proposals or in case of any special implementation issue. Such meetings may be called at any time by agreement of the co-chairmen or the Commission. Extraordinary meetings called at the request of the Commission may be held in Brussels.

The preparation of reports, agendas and minutes of the meetings of the Committee are organised by the co-chairmen and their services.

Technical assistance, including interpretation and translation support to the Committee, the secretariats and the joint working groups may be provided from the funds of PHARE Cross Border Co-operation and INTERREG II. Operational costs of the Committee to be supported by the programme will be submitted to the EC Delegation for endorsement.

The Committee in the scope of its activities monitors needs, selects project and monitors the realisation of measures under PHARE Cross Border Co-operation and of the relevant measures of INTERREG II. The Committee - deciding by consensus - should in particular:

• give its opinion on the objectives, priorities and CBC measures proposed for inclusion in the Indicative Multi-annual Indicative Programme and the Operational programmes of INTERREG II.
• approve the selection of projects
• receive reports on progress, reviews and assessments of the approved programmes and their components parts
• initiate and support activities which can promote Cross Border Co-operation and make more effective current and future CBC programmes.

3.2 The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures. The National Aid Coordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes.

The National Fund (NF) in the Ministry of Finance, headed by the National Authorising Officer (NAO) will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. Appropriate financial control shall be carried out by the competent National Financial Control Authority with respect to the implementation of the Programme.

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Bulgarian Government on 2 December 1998. Funds will be transferred following requests from the NAO. A payment of up to 20% of the funds to be managed locally will be transferred to the NF following signature of the Financing Memorandum and the Financing Arrangements (FAs) between the NF and the Implementing Agency/Central Finance and Contracts Unit (CFCU). The provisions are foreseen in articles 2 and 13 of the NF. Furthermore, the NAO must submit to the Commission the designation of the PAO and a narrative description of the system put in place related to the flow of transactions between the NF and IA/CFCU and the manner in which the payment function will be carried out.

Four replenishments will be made 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 Agency. The second replenishment may be requested
when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the Implementation Agency exceeds 10% of the total budget in force of the commitment. Exceptionally the NAO may request an advance payment of more than 20% in accordance with the procedures laid down in the aforesaid Memorandum of Understanding.

The Implementing Agency (IA) of the programme is the Ministry of Regional Development and Public Works.

The National Fund will transfer funds to the IAs, including the CFCU in accordance with the Financing Agreement (FA) signed between the NF and the Implementing Agency. The FA will be endorsed in advance by the European Commission. In case where the NF is itself the paying agent for the IA there will be no transfer of funds from the NF to the IA/CFCU. The CFCU and the Implementing Agency 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 Implementing Agency/CFCU.

A separate interest bearing bank account, denominated in € will be opened and managed by the NF in a separate accounting system in the Central Bank or in a Bank agreed in advance with the Commission. Interest will be reported to the European Commission; if the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme. The same procedures will apply to any funds transferred from the National Fund to the Implementing Agency.

The NAO and the PAO will ensure that all contracts are be prepared in accordance with the procedures set out in the DIS Manual and with the following provisions under 6.4. All contracts will be greater than 2 MEURO, except those for project 01.01 (supervision component), project 02.01 (supervision component), project 02.01 (supervision component), project 03.01 (supply components), project 04.01, project 04.02, project 04.03 and project 04.04.

All contracts must be concluded before 31 December 2001.
All disbursements must be made before 31 December 2002. In the case of the following project, however, disbursements must be before 31 December 2005: project 03.01 (Closure of uranium mines at Eleshnitsa and Dospat).

Any funds not used by the dates noted above of the programme will be recovered by the Commission.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period of the programme, the overall total of funds related to those contracts, as calculated by the PAO and established by the Commission, will be paid to the Implementing Agency before the official closure of the programme. The Implementing Agency assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses. The Implementing Agency further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Interests accrued on the funds deposited will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts - and notably of the payments made out of them - and of interests accrued will annually be provided by the NAO to the Commission.

3.3 The CBC Implementing Agency retains overall responsibility for the implementation of the whole programme. This includes : approval of terms reference, of tender documents, of evaluation criteria, of evaluation of offers, signature of contracts, authorisation and payments of invoices.
Relevant project beneficiary institutions are responsible towards the CBC Implementing Agency for the operational management of the projects: preparation of terms reference, of tender documents, of evaluation criteria, of evaluation of offers, of contracts, of invoices for payment. For works contracts under FIDIC rules, an official of the project beneficiary institutions acts as the Employer and invoices have to be certified by the independent Engineer contracted and financed by the Programme.

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

Project Beneficiary Institutions liaise directly with the EC Delegation for all issues related to the operational management of the projects.

They are as follows:

- the Railway Infrastructure Department of Bulgarian State Railways (BDZ) for the Railway project (project 01.01). The existing project team (previously known as Project Implementation Unit - PIU- in the framework of the 1994 and 1995 programmes) within the Department shall be adequately staffed with 3 qualified full-time experts. Appropriate technical assistance to the project team is to be ensured, financed by the Programme.

- the Foreign Investment and Capital Construction Department of General Road Administration (GRA) for the roads projects (projects 01.02, 04.01). The existing project team (previously known as Project Implementation Unit -PIU- in the framework of the 1994 and 1995 programmes) within the Department shall be adequately staffed with 3 qualified full-time experts. Appropriate technical assistance to the project team is to be ensured, financed by the Programme.

- the Department of Network Projects Implementation within the Bulgarian Telecommunication Company (BTC) for the Telecommunication project (projects 02.01). The existing project team (previously known as Project Implementation Unit -PIU- in the framework of the 1994 and 1995 programmes) within the Department shall be adequately staffed with 2 qualified full-time experts. Appropriate technical assistance to the project team is to be ensured, financed by the Programme.

- Ecoengineering-RM Ltd., within the Committee of Energy, for the closing of Uranium Mines (project 03.01). Ecoengineering will set up a project team which shall be adequately staffed with 2 qualified full-time experts. The Ministry of Environment and Water and the Committee of Energy will also each provide the project team with 1 expert on a part-time basis. Additional appropriate technical assistance to the project team is to be ensured, financed by the Programme.

- the Joint Department established between the Ministry of Regional Development and Public Works (MRDPW) and the Ministry of Environment for the environment preparation projects (project 04.02). A project team shall be established within the Department and shall be adequately staffed with 4 qualified full-time experts. Appropriate technical assistance to the project team is to be ensured, financed by the Programme.

- the National Centre for Regional Development and Housing Policy within the Ministry of Regional Development and Public Works for the regional development projects preparation project (project 04.03). A project team shall be established within the Centre, shall be adequately staffed with 1 qualified full-time expert, and shall establish a project steering committee involving relevant local authorities. Appropriate technical assistance to the project team is to be ensured, financed by the Programme.

3.4 Special conditions
3.4.1 Each construction project will include an adequate independent supervision of projects.

3.4.2 Works will be tendered to prequalified contractors with relevant financial capacity, and technical and FIDIC experience.

3.4.3 For projects 01.01 (Electrification of Dupnitza Kulata railway line), 01.02 (Rehabilitation of major roads in the CBC region), 04.01 (E79 motorway study), the current Programme is providing additional financing to previous programmes for projects already tendered and contracted (a project implementing the first part of Electrification of Dupnitza Kulata railway line is currently financed by BG 9402 and BG 9511, Rehabilitation of major roads in the CBC region is currently financed by BG 9402 and the first stage of E79 motorway study is currently financed by BG 9803).

4. **MONITORING AND ASSESSMENT**

A Joint Monitoring Committee (JMC) will be established. It will include the NAO, the NAC and the Commission. 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. The JMC will be assisted by Monitoring Sub-Committees (MSC) and will include the NAC, the PAO and the Commission Services.

The above mentioned JCC will act as MSC for the CBC programme.

The JCC will review in detail the progress of the programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultant (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring these are effected. The JCC will report to the JMC, to which it will submit overall detailed reports on all Phare financed CBC programmes.

5. **AUDIT AND EVALUATION**

The accounts and operations of the National Fund, and all relevant Implementing Agencies may be checked at regular intervals by an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the European Union's Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement.

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

6. **VISIBILITY/PUBLICITY**

The Programme Authorising 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 at annex 3.

7. **SPECIAL CONDITIONS**
In the event that agreed commitments are not met for reasons which are within the control of the Government 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 global Phare programme.