FINANCING AGREEMENT

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 Romania, hereinafter referred to as "THE RECIPIENT" on the other part,

HAVE AGREED AS FOLLOWS:

The measure referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY and resources of THE RECIPIENT in accordance with the provisions set out in this Agreement. 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 of 12 March 1991 between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this Agreement 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, described in detail in Annex C:

Programme number: 2005/017-553
Title: 2005 Phare National Programme for Romania.

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The maximum financial contribution of THE COMMUNITY is fixed at 372.29 ME, hereinafter referred to as "THE EC GRANT". Of this total amount 300 ME will be made available upon signature of this agreement. The remaining 72.29 ME will only be made available upon achievement, latest by the end of September 2006, of the benchmarks as set out in Annex F. In case of non-achievement of these benchmarks, the Commission will invoke Article 12.2 of Annex C and request the organisation of the JMC to analyse the situation in order to decide which project fiches will have to be amended.

The minimum financial contribution of THE RECIPIENT is determined by the co-financing rules as set out in the Annex to this agreement.

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 30 November 2007 subject to the provisions of this Agreement. 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 November 2008 with the exception for investment and related supervision contracts in subprogramme 4, where the deadline is November 30, 2009. 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. Disbursements of funds may continue for up to 12 months after the deadline for the execution of contracts to meet liabilities properly incurred through the execution of the contracts entered into under this programme. This Financing Agreement shall expire once those disbursements have been completed. All the funds which have not been disbursed by that time shall then 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 RECIPIENT:
Mr Istvan Jakab.
Secretary of State
Ministry of Public Finance
Government of Romania
44 Mircea Voda Blvd.
Entrance C, sector 3
Bucharest
Romania
Fax: 00 40 21 302 52 32

for the COMMUNITY:
Mr. Jonathan Scheele
Head of Delegation of the
European Commission in Bucharest
St. Jules Michelet 18-20
010463 Bucharest
Romania
Fax: 00 40 1 212 88 08

ARTICLE 5 - NUMBER OF ORIGINALS

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

ARTICLE 6 - ENTRY INTO FORCE

This Agreement 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 Agreement.

Done at Bucharest
Date 27 July 2006
for THE RECIPIENT

Mr. Sebastian Vladescu
Minister
Ministry of Public Finance

Annexes
A. Framework Agreement (incl. sub-annex A.A)
B. Arbitration
C. Special Provisions
D. Visibility/Publicity
E. Budget
F. Benchmarking agreement

Done at Bucharest
Date 27 July 2006
for THE COMMUNITY

Mr. Jonathan Scheele
Head of Delegation
European Commission in Romania
Annex C to the Financing Agreement

For the National Phare Programme 2005

Romania

Including indications for measures for the year 2006

PHARE 2005/017-553
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4. **OBJECTIVES AND PRIORITIES** ............................................. ERROR! BOOKMARK NOT DEFINED.

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PHARE/2005/017-553. 04.01 SECTOR ECONOMIC AND SOCIAL COHESION PART 1: IMPROVING INFRASTRUCTURE, PROVISION OF SME SUPPORT, ENVIRONMENTAL PROTECTION AND IMPROVING ACCESS TO EDUCATION AND TRAINING AT REGIONAL LEVEL IN ORDER TO ENHANCE ECONOMIC DEVELOPMENT
PHARE/2005/017-553. 04.02 SECTOR ECONOMIC AND SOCIAL COHESION PART 2: HUMAN RESOURCE DEVELOPMENT: EMPLOYMENT AND SOCIAL INCLUSION MEASURES
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SUBPROGRAMME 5. SPECIFIC ACTIONS AND NEEDS 2005/017-553.05 (TOTAL: € 16.01 MILLION)

PHARE/2005/017-553. 05.01 SUPPORT TO ADMINISTRATIONS MANAGING EC FUNDS
PHARE/2005/017-553. 05.03 SUPPORT TO ROMANIA’S EVALUATION STRATEGY
A: Development of democracy, human rights and respect for minorities

Phare funds required: € 11.0 Million

This sector addresses the social inclusion of the Roma population in Romania, by promoting the Roma to participate fully in the social, economic and cultural life of Romanian society.

In preparing for Romania’s EU accession and the preparation of the implementation of the EU structural funds, the inclusion Roma is one of the priority categories for human resources and social inclusion measures contained in sub-programme 4 “Social and Economic Cohesion”.

At the same time this multi-annual sector programme “Minorities”, especially aiming at the social inclusion of Roma, is an important continuation of previous Phare programmes aimed at strengthening the capacity and readiness of public institutions at the national, county and municipality level to work together with Roma representatives.

This multi-annual programme focuses on the following:

<table>
<thead>
<tr>
<th>Phare priorities</th>
<th>Main tasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop the institutional framework and models to achieve social inclusion</td>
<td>Continue support for institution building at national level for coordination and monitoring of the implementation of the National Strategy for Improvement of the Roma Situation, as well as improve cooperation among stakeholders for the implementation of specific social inclusion measures at national, county and local level. Provide Roma with formal identity papers, in order to contribute to improved access to education, employment, social assistance and other social rights. Implement a large public awareness campaign on Roma issues focused on the non-Roma population well as the Roma population. Continue the Partnership grant scheme for community development projects of local authorities with local Roma communities to facilitate initiatives to improve the condition of the Roma.</td>
</tr>
<tr>
<td>Access to education for disadvantaged groups</td>
<td>Focus upon institution and capacity building as well as seeking to improve the educational environment in schools dealing with inclusion for disadvantage groups with a special focus on Roma. Train school inspectors on inclusive education from newly involved counties thereby ensuring a national standardisation. Consolidate the school mediator programme nationwide thereby improving the interface between the child, their parents and the Roma community. Teacher training for early -pre-school education and remedial education.</td>
</tr>
<tr>
<td>Phare priorities</td>
<td>Main tasks</td>
</tr>
<tr>
<td>------------------</td>
<td>------------</td>
</tr>
<tr>
<td></td>
<td>Development and expansion of curricula for the second chance programme (primary &amp; lower secondary) thereby correcting drop out and increasing the number of Roma children completing compulsory education.</td>
</tr>
<tr>
<td></td>
<td>Ensure evaluation, impact assessment, and a nationwide awareness campaigns for inclusive education schemes and multicultural behaviour.</td>
</tr>
</tbody>
</table>

The 2005 programme will contribute to implementing the following specific tasks:

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management of a Grant Scheme designed to address the issue of Roma identity.</td>
</tr>
<tr>
<td>Undertake a Grant Scheme designed to address the issue of Roma identity.</td>
</tr>
<tr>
<td>Support for the implementation of the county strategies of the school inspectorates - Grant scheme and TA.</td>
</tr>
</tbody>
</table>

Phare funds required: €2.00 Million

This measure aims at further intensifying the NGOs contribution to a democratic society and further supporting citizens in exercising their rights and responsibilities. The objective will be achieved through:

1. Supporting NGOs in order to further strengthen the network of Citizens Advice Bureaux (CABs) and increase the efficiency and effectiveness of their services.

2. Further strengthening the advocacy role of the NGOs in supporting democracy, rule of law, human rights including minorities’ rights, access to information, freedom of expression and related independence of media, independence of justice and fight against corruption.

All components of the measure 01.02 “civil society” will be managed by the Romanian Civil Society Development Foundation (CSDF)\(^1\). The implementing agency will conclude a service contract to the CSDF through a negotiated procedure with a single tender.

Under this agreement CSDF will receive appropriate administrative costs of not more than 7.25% of the budget, including the audit costs. CSDF will not be an eligible beneficiary of the programme, other than through payments of these administrative costs. Being a non-profit organisation, CSDF will be exempted of the obligation foreseen by the standard service contract related to the bank guarantee.

**B: Development of Romania's institutions**

Phare funds required: €13.59 Million

\(^1\) The CSDF is a non-profit organisation specialised in the management of Civil Society programmes that has been set up with Phare support to this end.
The strategy concerning the acceleration of the public administration reform in Romania for the period 2004 – 2006 is aimed at developing a public administration system that meets European standards and values of transparency, predictability, accountability, adaptability and efficiency.

Phare support will provide a substantial contribution to the implementation of the reform measures foreseen within the three priority areas identified in the strategy:

- **Civil service reform** through creation of a professional body of civil servants, stable and politically neutral;
- **Local government reform** through the continuation of the decentralization/deconcentration process;

The priority “improvement of the policy formulation and coordination process” as identified in the 2004 multi-annual programme, the Government addresses by own and other resources.

This multi-annual programme focuses on the following:

<table>
<thead>
<tr>
<th>Phare priorities</th>
<th>Main tasks</th>
</tr>
</thead>
</table>
| Civil service reform | - Contribute to develop the conditions for attracting and retaining qualified staff in the public administration through the implementation of the pay reform, an adequate legal framework for the selection, assessment and promotion by merit of civil servants and training
- Strengthen the institutional capacity of the institutions responsible for the reform implementation
- Improve the human resources management and information system. |
| Local government reform – decentralization/deconcentration process in the Romanian public administration | - Improve public services delivery having in view better access of the citizens, promptly and quality services and a better adequacy between the services and the local needs
- Coherent and effective assignment of responsibilities, financial resources and rights to all levels of local governments. |

The 2005 programme will contribute to implementing the following specific tasks that address only the first two priorities. The policy formulation process will be addressed as of 2005.

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enhancing the Human Resources competencies within the Romanian civil service, implementing ethic standards for the civil servants and enhancing the civil service accountability and transparency</td>
</tr>
<tr>
<td>Adapting the Young Professional Scheme to the needs of the Civil Service Reform</td>
</tr>
<tr>
<td>Strengthen INA and RTC training capacity</td>
</tr>
<tr>
<td>Logistical Support for INA and RTCs</td>
</tr>
<tr>
<td>Strengthening local public administration capacity to manage the decentralized services</td>
</tr>
</tbody>
</table>
Phare funds required: € 18.00 Million

This sector covers assistance to enhance the independence, professionalism and management capacity of the Romanian judiciary.

Phare support will significantly contribute to the achievement of these objectives committed by the Ministry of Justice within the Strategy for the Reform of the Judiciary and will complement the national efforts in 4 priorities.

This multi-annual programme focuses on the following:

<table>
<thead>
<tr>
<th>Phare priorities</th>
<th>Main tasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building an independent judiciary in Romania</td>
<td>Contribute to establishing</td>
</tr>
<tr>
<td></td>
<td>• a fully functional Superior Council of Magistrates (SCM) with sufficient</td>
</tr>
<tr>
<td></td>
<td>means to perform its role as guarantee of independence</td>
</tr>
<tr>
<td></td>
<td>• functional specialized courts</td>
</tr>
<tr>
<td>Building a professional judicial system</td>
<td>Improve the institutional capacity and training policy at the National</td>
</tr>
<tr>
<td></td>
<td>Institute of Magistrates (NIM) and the Training Centre for Clerks (TCC)</td>
</tr>
<tr>
<td>Improving the administration and access to Justice</td>
<td>Contribute to establishing</td>
</tr>
<tr>
<td></td>
<td>• a functional mediation system</td>
</tr>
<tr>
<td></td>
<td>• an improved legal and institutional framework ensuring legal aid in civil</td>
</tr>
<tr>
<td></td>
<td>and criminal cases</td>
</tr>
<tr>
<td></td>
<td>• a transparent act of justice</td>
</tr>
<tr>
<td>Building an efficient judicial management system</td>
<td>Equip the entire judicial system with IT with a goal to</td>
</tr>
<tr>
<td></td>
<td>establishing and operating an automated court management system</td>
</tr>
</tbody>
</table>

The 2005 programme will contribute to implementing the following specific tasks:

**Tasks, to start with 2005 funds**

- Assistance for the High Court of Cassation and Justice
- Further assistance for NIM to successfully enforce the continuous training strategy
- Further assistance for supporting the National School of Clerks (NSC) efforts in strengthening its institutional capacity and training policies
- Support for strengthening the institutional and legislative framework in the field of international judicial cooperation
- Endowment in order to ensure the proper functioning of the international judicial cooperation networks
- Increasing the effectiveness of the probation and victims’ protection system according to EU best practices
- Strengthening the institutional and administrative capacity of the MoJ and the Public Ministry (Prosecutor’s Office)
- To increase the transparency of the courts and Prosecutor’s Office activity
- Continuation of the judiciary automation
SUBPROGRAMME 2. MEETING THE ECONOMIC CRITERIA-
2005/017-553/02
This subprogramme is void for 2005.

SUBPROGRAMME 3. MEETING THE OBLIGATIONS OF THE ACQUIS –
2005/017-553.03 (TOTAL: € 136.69 MILLION)
This sub-programme focuses on four priority sectors: Public Finance, Agriculture and Rural development, Environment and Border Management.

Phare funds required: € 35.9 Million

The overall objective of the priority sector is to improve the legal and administrative capacity of the Ministry of Public Finance and the Romanian Court of Accounts.

This multi-annual programme focuses on the following:

<table>
<thead>
<tr>
<th>Phare priorities</th>
<th>Main tasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxation legislation and Fiscal Administration</td>
<td>Full alignment to the acquis communautaire. Ensuring the compatibility of the taxation legislation with the acquis communautaire and strengthening the tax administration reform. This priority aims at:</td>
</tr>
<tr>
<td></td>
<td>• transposing Community regulations in the taxation and fiscal administration and implementing them in national legislation;</td>
</tr>
<tr>
<td></td>
<td>• strengthening the capacity and improving working procedures of the Fiscal Administration to ensure uniform and correct application of the regulations on direct and indirect taxation field;</td>
</tr>
<tr>
<td></td>
<td>• reducing fraud and fiscal evasion</td>
</tr>
<tr>
<td></td>
<td>• completing the legislative framework regarding the compatibility of legislation with the Code of Conduct for Business Taxation;</td>
</tr>
<tr>
<td></td>
<td>• improving assistance services for taxpayers and fiscal education campaigns</td>
</tr>
<tr>
<td></td>
<td>• training personnel on the new tax legislation and for improving the professionalism and integrity of Fiscal Administration</td>
</tr>
<tr>
<td></td>
<td>• putting legal framework (norms and procedures) in place in order to improve the electronic services to taxpayers (legal and physical persons)</td>
</tr>
</tbody>
</table>

| Public finance management                     | Contribute to the development of:                                                                                                         |
|                                               | • the institutional and procedural framework in order to ensure a sound financial management of the Community/structural funds;            |
|                                               | • an efficient financial management and control system                                                                                     |
|                                               | • the public internal audit function                                                                                                      |
|                                               | • consolidated financial statements and the consolidated reports related to the budget implementation;                                     |
|                                               | • administrative capacity at the completed coordination unit for ensuring the transparency and efficiency of the financial flows to and from the European Union budget; |
|                                               | • the public procurement system                                                                                                           |
|                                               | • Risk management of the government debt portfolio;                                                                                         |
|                                               | • the School of Public Finance, to ensure high-standards training to the staff of the MoPF and other concerned institutions.           |

<p>| IT infrastructure development                | Continuation of the development of the IT infrastructure in order to obtain                                                                 |
|                                               | • efficient enforcement of the financial-tax regulations, based on a harmonized legislation and on new work methods                     |</p>
<table>
<thead>
<tr>
<th>Phare priorities</th>
<th>Main tasks</th>
</tr>
</thead>
</table>
| Court of Accounts | - Strengthen the Court of Accounts’ overall capacity through the introduction of modern audit methods in compliance with the internationally accepted audit standards and with the best European practices.  
  - Create a highly professional staff, constantly preoccupied to improve its professional performances  
  - Develop a modern and adequate technical and logistical support, a good internal and external communication. |

The 2005 programme will contribute to implementing the following specific tasks:

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completing the harmonisation of the tax legislation and strengthening the fiscal administration</td>
</tr>
<tr>
<td>Continuing the development of the legal framework and of the administrative capacity for the strengthening of the public finance management</td>
</tr>
<tr>
<td>Continuing the implementation of the IT strategy</td>
</tr>
<tr>
<td>Improving the Institutional Capacity of the Romanian Court of Accounts</td>
</tr>
</tbody>
</table>

Phare funds required: € 18.5 Million

The sector programme for agriculture aims at supporting Romania to achieve the necessary administrative and management capacity and the necessary inspection and monitoring skills and provisions required in the context of the Common Agricultural Policy and the Rural and Agricultural funds.

This multi-annual programme focuses on the following:

<table>
<thead>
<tr>
<th>Phare priorities</th>
<th>Main tasks</th>
</tr>
</thead>
</table>
| Rural development policy and CAP | Establish a ready-to implement Programme for Rural Development.  
  Assist the MAFRD to acquire capacity as Managing Authority for the management of Rural Funds and capability to effectively develop and implement the Rural Development Programme.  
  Strengthen the ministry’s capacity to carry out analysis and assessment of past and proposed support measures taking account of the evolving focus of the CAP.  
  Support measures to bring fisheries and aquaculture legislation fully in line with the acquis.  
  Implement the acquis for forest reproductive material.  
  Strengthen further the SAPARD central and regional structures. |
<table>
<thead>
<tr>
<th>European Agricultural Guidance and Guarantee Fund EAGGF</th>
<th>Establish</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• A Paying Agency (PA). This will also cover payments for the Rural Development Fund; the SAPARD Agency will be merged into the PA by accession</td>
</tr>
<tr>
<td></td>
<td>• An Agricultural Information System (AIS) for transmitting data to EC-DG Agriculture, Eurostat and producers</td>
</tr>
<tr>
<td></td>
<td>• Farm Accountancy Data Network, to support the statistical and analytical requirements</td>
</tr>
<tr>
<td></td>
<td>• Integrated Administration and Control System (IACS) as a key basis for CAP payments</td>
</tr>
<tr>
<td></td>
<td>• Necessary infrastructure and legislation in order to bring the fruits and vegetables sector fully in line with EU requirements</td>
</tr>
<tr>
<td></td>
<td>• Necessary infrastructure and legislation to align the wine sector with the acquis</td>
</tr>
<tr>
<td></td>
<td>• A milk quota and management system in compliance with the EU requirements</td>
</tr>
<tr>
<td></td>
<td>• A carcass classification system in compliance with the EU requirements</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Food safety</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Development of a Romanian Food Authority system based on the Romanian National Veterinary and Food Safety Agency and the continued improvement of the Phytosanitary services.</td>
</tr>
</tbody>
</table>

The 2005 programme will contribute to implementing the following specific tasks:

**Tasks, to start with 2005 funds**

- TA for training of staff of the Managing Authority and for the bodies involved in the programming process and the setting-up of the implementation system
- TA for ex ante evaluation of the Rural Development Programme
- Investment for the Managing Authority
- Training at regional and local level for increasing the absorption of RDF and FIFG and to ensure submission of mature project proposals for rural development, for all "stakeholders"
- Supply of equipment for the fisheries and aquaculture sectors
- Supply of equipment for the efficient operation of the Paying Agency
- Supply of equipment for the efficient operation of an AIS system at national and regional level
- Supply of equipment for establishing and efficient operation of a FADN system
- Supply of equipment for efficient operation of IACS at central and regional level
- Establishment of fruits and vegetables testing facilities by purchase of specific equipment for the existing network of laboratories
- Supply of equipment for 2 semi-endowed wine control laboratories
- Supply of equipment for establishment and efficient operation of a milk quota data and communication network
- Supply of equipment for establishment and efficient operation of a carcass classification system
- Supply of IT and communication equipment for developing and strengthening the RSVFSA for RASFF, TRACES and 5 reference regional milk control labs
- Twinning for further strengthening and development of the veterinary services in compliance with the EU requirements
- Supply of equipment for the veterinary services (BIPs and rendering industry)
- Investment for further consolidation of phytosanitary services.
**Tasks, to start with 2005 funds**
Further supply of kits (Biorad, TSE and Prionics Western)

Phare funds required: € 17.50 Million

The sector programme aims to strengthen the administrative, monitoring and enforcement capacities and capabilities at all levels (local, regional and central level) in order to implement environmental legislation and to fulfil the EU requirements regarding the environmental acquis.

This multi-annual programme focuses on the following:

<table>
<thead>
<tr>
<th>Phare priorities</th>
<th>Main tasks</th>
</tr>
</thead>
</table>
| Horizontal and noise related legislation | - Strengthen institutional and technical capacity of the National Environmental Protection Agency (NEPA).  
- Complete secondary legislation to ensure necessary conditions for the Environmental Impact Assessment and the Strategic Environmental Assessment (EIA- and SEA) Directive to be fully implemented and enforced, and intensify training of staff in particular to support public awareness.  
- Establish a high technology informational system (software, data base, statistic analysis), comprising a database for reporting and train staff regarding reporting requirements;  
- Development of a National Noise Monitoring System  
- Supply of noise monitoring equipment and staff training |
| Air quality | - Strengthen institutional capacities at regional and local levels in implementing and enforcing air quality related legislation  
- Elaboration of action plans and programmes for air quality management and reduction of emissions; improved acquisition, storage and reporting of relevant data; quality assurance and quality control procedures (QA/QC) in the air quality sector  
- Supply air quality monitoring equipment and staff training |
| Waste management | - Strengthen institutional capacities at regional and local levels in implementing and enforcement of domestic waste and industrial waste management related legislation,  
- Improve administrative capacity at regional level for investment planning and elaboration of regional waste management plans  
- Supply of waste monitoring equipment |
| Water quality | - Support to the River Basin Management Plan for the Ialomita-Buzau river basin  
- Elaboration of an investment methodology for Water Framework Directive (WFD) within a River Basin  
- Supply of computers and software for data collection, processing and visualization; hardware and software for GIS applications in respect of river basin management plans, quality monitoring equipment and staff training |
<p>| Nature protection | - Strengthen institutional capacities at regional and local levels in implementing and enforcement of nature protection related legislation |</p>
<table>
<thead>
<tr>
<th>Phare priorities</th>
<th>Main tasks</th>
</tr>
</thead>
</table>
| GIS              | • Introduce and maintain Geographical Information System (GPS) techniques  
|                  | • Improve institutional management and technical performance of the staff  
|                  | • Environment related GIS maps, supply of IT equipment  
| IPPC & risk management | • Strengthen institutional capacities at regional and local levels in implementing and enforcement of Industrial Pollution Prevention Control (IPPC) & risk management related legislation,  
|                  | • Good institutional management and technical performance of the staff  
|                  | • Review, validation and update of Implementation Plans  
|                  | • Supply of IPPC monitoring equipment and staff training. |

The 2005 programme will contribute to implementing the following specific tasks:

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equipment acquisition for waste analysis</td>
</tr>
<tr>
<td>Assistance in the preparation for compliance with provisions regarding temporary storage of waste</td>
</tr>
<tr>
<td>Assistance in promoting solutions regarding recycling and use of recycled materials from End-of-Life Vehicles</td>
</tr>
<tr>
<td>Investment supporting the information system and database for water management</td>
</tr>
<tr>
<td>Water resources quality monitoring equipment acquisition</td>
</tr>
<tr>
<td>Technical assistance to develop the environmental related GIS maps</td>
</tr>
<tr>
<td>Investment support to assist the environmental protection decisions through GIS system</td>
</tr>
<tr>
<td>Further support for the IPPC and LCP Directives Implementation.</td>
</tr>
</tbody>
</table>

Phare funds required: € 41.42 Million

This multi-annual programme focuses on the following:

<table>
<thead>
<tr>
<th>Phare priorities</th>
<th>Main tasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Optimization of the Institutional System and of the System of Human Resources</td>
<td>Advanced harmonisation of Romanian Border Police (RBP) management and co-operation structures and of the human resources system with EU best practice in accordance with the Schengen Acquis</td>
</tr>
<tr>
<td>Further Development of the System for Strengthening the Romanian Borders</td>
<td>Further modernization of the sub-systems for securing of the Romanian borders in accordance with EU best practice in relation to the border management, including the Schengen Acquis.</td>
</tr>
</tbody>
</table>

The 2005 programme will contribute to implementing the following specific tasks:

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improving Border Police and Customs Co-operation at the Serbian Border</td>
</tr>
<tr>
<td>RBP Human Resources development – Phase 2 - Training in Curriculum Design &amp; Development</td>
</tr>
<tr>
<td>Operational Training in Selective, Risk-Based Border Control Techniques for Border Police and Customs</td>
</tr>
<tr>
<td>Development of the RBP and NCA Internal Control Functions</td>
</tr>
</tbody>
</table>
**Tasks, to start with 2005 funds**

<table>
<thead>
<tr>
<th>Task</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical Assistance for the Development of the RBP Command and Control System</td>
</tr>
<tr>
<td>Endowment of Designated Border Crossing Points with Specialised Detection Equipment</td>
</tr>
<tr>
<td>Implementation of the RBP Integrated System for Observation, Surveillance and Control of Traffic at the Black Sea, Final Phase</td>
</tr>
<tr>
<td>Upgrading the Surveillance Capacity of RBP Special Surveillance Vehicles, Second Phase</td>
</tr>
<tr>
<td>Supply of RBP Vessels for Surveillance and Control of the Blue Border.</td>
</tr>
</tbody>
</table>

In order to meet the overall objective of sub-programme 3 “Meeting the obligations of the acquis” the following measures, complementary to the priority sectors, have been identified as urgent requirements under the 2005 programme.

Phare funds required: €2.50 Million

To strengthen the enforcement of intellectual and industrial property rights under the coordination of the General Prosecutors Office by reinforcing the capacity of institutions and the agencies engaged in protection of intellectual property rights and improvement of the horizontal cooperation between them.

The project will contribute to implementing the following specific tasks:

**Tasks, to start with 2005 funds**

<table>
<thead>
<tr>
<th>Task</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1: Increase the cooperation between customs administration and intellectual property rights owners and also with other institutions involved in intellectual property rights field; conclude a Cooperation Protocol between ORDA and the General Border Police Inspectorate</td>
</tr>
<tr>
<td>Task 2: Improve the methodology of control for the uniform application of customs legislation in the field of intellectual and industrial property rights -;</td>
</tr>
<tr>
<td>Task 3: Development of the information dissemination system in the field of industrial property</td>
</tr>
<tr>
<td>Task 4: Developing of an IT system and especially the database in the field of industrial property rights, establishing fast communication means and increasing the cooperation between Intellectual property rights owners and General Customs Administration</td>
</tr>
<tr>
<td>Task 5: Training of all stakeholders in intellectual and industrial property matters to reduce counterfeiting &amp; piracy (Customs, Police, judges, prosecutors, lawyers); Organize training programs for the personnel of the institutions involved in IPR protection and public campaigns in order to improve the general public awareness on the importance of this domain</td>
</tr>
<tr>
<td>Task 6: Strengthen the administrative capacity at the border and ensuring the proper enforcement of border legislation.</td>
</tr>
<tr>
<td>Task 7: Increase interconnections of new and/or existing Registers and Implement new Registers when needed by the business community</td>
</tr>
<tr>
<td>Task 8: Systematic introduction of new EU Directive requirements and EU trademark</td>
</tr>
</tbody>
</table>
Phare funds required: €1.50 Million

The purpose of the project is the Strengthening the Supervisory Methodology of the Romanian Insurance Supervision Commission (ISC) and thus, the upgrading of the Romanian Insurance Industry environment in line with the international standards and new techniques and methods (especially Solvency I & II methodologies).

To be achieved by the following tasks which correspond to the main objectives within the short term and medium term strategy (see Annex 5) of the Insurance Supervisory Commission, as updated at the end of the 2004:

The project will contribute to implementing the following specific tasks:

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1: Harmonization of the national legislation with the acquis communautaire and legislation enforcement;</td>
</tr>
<tr>
<td>Task 2: Strengthening the ISC’ institutional capacity for prudential supervision and control</td>
</tr>
<tr>
<td>Task 3: Applied impartial and prudential supervision by ISC of the insurance undertakings and insurance and/or reinsurance brokers</td>
</tr>
<tr>
<td>Task 4: Consumer protection and increase of the market transparency.</td>
</tr>
</tbody>
</table>

Phare funds required: €4.65 Million

The general objective is to reinforce the Romanian Statistical System through adoption of the current and new acquis communautaire.

The project purpose is the development of institutional capacity to assure enhancement of harmonization process with the EU standards and regulations and the improvement of the access to the statistical information for the public at large.

The 2005 programme will contribute to implementing the following specific tasks:

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task I – Social statistics development</td>
</tr>
<tr>
<td>Task II – Economic statistics development</td>
</tr>
<tr>
<td>Task III – Endowment for capacity strengthening</td>
</tr>
</tbody>
</table>

Phare funds required: €1.50 Million

The project continues with the implementation of the acquis communautaire for Chapter 3 of Negotiations “Freedom to provide services” by creating the necessary infrastructure for the enforcement of the applicable legal and regulatory framework on capital market and to support investors’ education.

The 2005 programme will contribute to implementing the following specific tasks:

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1: To enforce the International Accounting Standards/ International Financial Reporting Standards for the capital market (IAS/ IFRS)</td>
</tr>
</tbody>
</table>

LB
**Tasks, to start with 2005 funds**

<table>
<thead>
<tr>
<th>Task 2:</th>
<th>To ensure the necessary equipment for customizing the internal database of CNVM in order to comply with the reporting requirements set by the acquis communautaire in the field</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 3:</td>
<td>To customize the internal database of CNVM in order to comply with the reporting requirements set by the acquis communautaire in the field</td>
</tr>
<tr>
<td>Task 4:</td>
<td>To train the CNVM staff in order to deal with the internal surveillance system</td>
</tr>
<tr>
<td>Task 5:</td>
<td>To implement a public awareness campaign in order to improve investors' education</td>
</tr>
</tbody>
</table>

**Phare funds required: €3.00 Million**

The project will support the application of EU energy acquis in Romania in two ways:

1. Deepen and consolidate the restructuring and operation of the energy market
2. Promote energy efficiency and renewable

The 2005 programme will contribute to implementing the following specific tasks:

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Technical and Economic Study of a SCADA System for the Gas Network</td>
</tr>
<tr>
<td>1.2 Information System for the Gas Market Operator (GMO)</td>
</tr>
<tr>
<td>1.3 Awareness Raising in View of the Full Liberalization of the Electricity Market</td>
</tr>
<tr>
<td>2.1 Development of Financial Incentives Mechanism for Energy Efficiency</td>
</tr>
<tr>
<td>2.2. Technical and Economic Potential of RES in Romania</td>
</tr>
</tbody>
</table>

**Phare funds required: €10.22 Million**

To complete the transposition of the transport acquis in order to improve the safety, the quality of services and to strengthen the institutions in the field of transport by the following tasks:

The 2005 programme will contribute to implementing the following specific tasks:

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Task 1:</td>
</tr>
<tr>
<td>Task 2:</td>
</tr>
<tr>
<td>Task 3:</td>
</tr>
<tr>
<td>Task 4:</td>
</tr>
<tr>
<td>Task 5:</td>
</tr>
<tr>
<td>Task 6:</td>
</tr>
<tr>
<td>Task 7:</td>
</tr>
<tr>
<td>Task 8:</td>
</tr>
<tr>
<td>Task 9:</td>
</tr>
<tr>
<td>Task 10:</td>
</tr>
</tbody>
</table>

**SUBPROGRAMME 4. ECONOMIC AND SOCIAL COHESION 2005/017-553.04 (TOTAL: € 175.00 MILLION)**

This sector is split into three parts; each of it is implemented by one implementing agency.

Phare funds required: € 125.89 Million

Phare funds required: € 23.26 Million

Phare funds required: € 25.85 Million

The three parts of the sub-programme are hereafter jointly described.
In view of implementing the NDP priorities and preparation for Structural Funds, the 2004 – 2006 Phare assistance in the field of ESC will be focused on the achievement of the following objectives:

- To develop and implement multi-annual policies and programmes for economic and social cohesion, through investment projects in priority sectors, in line with the provisions of the National Development Plan 2004-2006 (NDP), to support the overall national and regional economic growth, in order to increase the overall potential of the country and of each of the eight development regions, as well as to diminish the economic and social disparities between them;
- To strengthen the institutional capacity of central ministries, the 8 Regional Development Agencies and relevant local authorities to prepare for the implementation of investment support to be provided, in line with provisions regarding the Extended Decentralised Implementation Systems (EDIS) in candidate countries.
- To build the institutional, administrative, programming and implementation structures necessary to effectively manage EU Structural Funds after accession.

This multi-annual programme focuses on the following:

<table>
<thead>
<tr>
<th>PRIORITIES</th>
<th>MEASURES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Priority A: Improving regional infrastructure to support economic development</strong></td>
<td>Regional and local transport, business and tourism infrastructure</td>
</tr>
<tr>
<td><strong>Priority B: Human Resource Development</strong></td>
<td>Tackling structural unemployment</td>
</tr>
<tr>
<td></td>
<td>Improving long term labour market adaptability</td>
</tr>
<tr>
<td></td>
<td>Actively combating social exclusion</td>
</tr>
<tr>
<td></td>
<td>Improving access to education and region specific technical and vocational education and training system</td>
</tr>
<tr>
<td><strong>Priority C: Development of the productive sector through support to SMEs</strong></td>
<td>Support to SMEs, business start-up, micro-enterprises and business support service providers</td>
</tr>
<tr>
<td><strong>Priority D: Environmental protection at regional level</strong></td>
<td>Improving environmental protection at local and regional level</td>
</tr>
<tr>
<td><strong>Priority E: (Horizontal IB) Building the institutional structures in order to achieve, upon accession, sound and efficient management of EU Structural Funds, and efficient management of programmes under EDIS requirements</strong></td>
<td>Development of administrative capacities for Structural Funds management</td>
</tr>
</tbody>
</table>

Under the 2005 programme the following specific tasks will be implemented:

Part 1

<table>
<thead>
<tr>
<th>Tasks, to start with 2005 funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional and local transport, business and tourism infrastructure (Priority A)</td>
</tr>
<tr>
<td>Improving region specific Technical and Vocational Education and Training (TVET) system (Priority B)</td>
</tr>
<tr>
<td>Continuing training of pre-university staff (Priority B)</td>
</tr>
<tr>
<td>Institutional Support for the National Agency for SMEs (NASMEC) to introduce and develop e-governance and to foster use of Information and Communication Technology (ICT) by innovative SMEs (Priority C)</td>
</tr>
<tr>
<td>Improving business support services (Priority C)</td>
</tr>
</tbody>
</table>

14
Improving access to finance of SMEs, micro-enterprises and innovative companies (Priority C)
Improving environmental protection at local and regional level (Priority D)
SAMTID supervision (Priority D)

Part 2

Tasks to start with 2005 funds (All from Priority B)
Active employment measures for youth and long-term unemployed
Qualification and re-qualification of work force
Establishment of the National Authority for Qualifications
Social inclusion measures for disadvantaged groups
Strengthening the capacity of the Ministry for Labour, Social Solidarity and Family (MLSSF) in the field of social assistance and services

Part 3

Tasks to start with 2005 funds (All from Priority E)
Support to CSF Managing Authority
Horizontal training for MA
Expanding the Single Management Information System
Coordination, management and implementation of regional programmes
Support to future Managing Authorities and Intermediate Bodies
Ex-ante evaluation of Operational Programmes.

SUBPROGRAMME 5. SPECIFIC ACTIONS AND NEEDS 2005/017-553.05
(TOTAL: € 16.01 MILLION)

This sub-programme will cover special actions such as evaluations or audit missions by external experts, peer reviews and urgent needs, which will arise just before or during the first years of Membership. Furthermore, it contains measures for strengthening the administrative capacity of those parts of the administration which cope with pre-accession funds.

Phare funds required: €12.01 Million

Strengthen the capacity of the line ministries and government institutions to prepare better quality programmes and projects and deliver qualitative outputs when using EU funds, do Project Preparation and allow for Special Actions during early Membership.

Phare funds required: €4.00 Million

Implementing the EU best practices in the field of evaluation of public interventions, in order to help to enhancing relevance, efficiency, effectiveness, impact, and sustainability of programmes/projects financed by public funds, both EU and national budget.
1. **Indicative Budget**

1.1. **Budget Table for the Budgetary Year 2005**

The distribution of figures between the budget lines is indicative within the limits of Art. 5 MoU National Fund. The figures are given in Million €

<table>
<thead>
<tr>
<th>Measure</th>
<th>Title</th>
<th>PHARE contribution</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>.01</td>
<td><strong>POLITICAL CRITERIA</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>.01</td>
<td>Sector Minority</td>
<td>0.00</td>
<td>11.00</td>
<td>11.00</td>
</tr>
<tr>
<td>.02</td>
<td>Civil Society</td>
<td>0.00</td>
<td>2.00</td>
<td>2.00</td>
</tr>
<tr>
<td>.03</td>
<td><strong>Sector Public Administration Reform</strong></td>
<td>3.50</td>
<td>10.09</td>
<td>13.59</td>
</tr>
<tr>
<td>.04</td>
<td>Sector Judiciary Reform</td>
<td>10.50</td>
<td>7.50</td>
<td>18.00</td>
</tr>
<tr>
<td>.02</td>
<td><strong>ECONOMIC CRITERIA</strong></td>
<td><strong>Void in 2005</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>.03</td>
<td><strong>ACQUIS OBLIGATIONS</strong></td>
<td>97.94</td>
<td>38.75</td>
<td>136.69</td>
</tr>
<tr>
<td>.01</td>
<td>Sector Public Finance</td>
<td>23.20</td>
<td>12.70</td>
<td>35.90</td>
</tr>
<tr>
<td>.02</td>
<td>Sector Agriculture</td>
<td>16.40</td>
<td>2.10</td>
<td>18.50</td>
</tr>
<tr>
<td>.03</td>
<td>Sector Environment</td>
<td>12.25</td>
<td>5.25</td>
<td>17.50</td>
</tr>
<tr>
<td>.04</td>
<td>Sector Border Management</td>
<td>37.67</td>
<td>3.75</td>
<td>41.42</td>
</tr>
<tr>
<td>.05</td>
<td>IPR protection</td>
<td>0.50</td>
<td>2.00</td>
<td>2.50</td>
</tr>
<tr>
<td>.06</td>
<td>Insurance Supervisory Commission (ISC)</td>
<td>0.00</td>
<td>1.50</td>
<td>1.50</td>
</tr>
<tr>
<td>.07</td>
<td>Statistics</td>
<td>0.06</td>
<td>4.59</td>
<td>4.65</td>
</tr>
<tr>
<td>.08</td>
<td>National Securities Commission... (NSC)</td>
<td>0.50</td>
<td>1.00</td>
<td>1.50</td>
</tr>
<tr>
<td>.10</td>
<td>Energy sector consolidation</td>
<td>1.20</td>
<td>1.80</td>
<td>3.00</td>
</tr>
<tr>
<td>.11</td>
<td>Transport sector consolidation</td>
<td>6.16</td>
<td>4.06</td>
<td>10.22</td>
</tr>
<tr>
<td>.04</td>
<td><strong>ECO. &amp; SOC. COHESION</strong></td>
<td><strong>128.55</strong></td>
<td><strong>46.45</strong></td>
<td><strong>175.00</strong></td>
</tr>
<tr>
<td>.01</td>
<td>Infrastructure, etc.</td>
<td>106.89</td>
<td>19.00</td>
<td>125.89</td>
</tr>
<tr>
<td>.02</td>
<td>Human Resource Development</td>
<td>18.96</td>
<td>4.30</td>
<td>23.26</td>
</tr>
<tr>
<td>.03</td>
<td>Structural Funds Management</td>
<td>2.70</td>
<td>23.15</td>
<td>25.85</td>
</tr>
<tr>
<td>.05</td>
<td><strong>SPECIFIC ACTIONS AND NEEDS</strong></td>
<td><strong>2.50</strong></td>
<td><strong>13.51</strong></td>
<td><strong>16.01</strong></td>
</tr>
<tr>
<td>.01</td>
<td>Support to EU funds management</td>
<td>2.50</td>
<td>9.51</td>
<td>12.01</td>
</tr>
<tr>
<td>.03</td>
<td>Evaluation scheme</td>
<td>0.00</td>
<td>4.00</td>
<td>4.00</td>
</tr>
<tr>
<td></td>
<td><strong>Grand Total</strong></td>
<td><strong>242.99</strong></td>
<td><strong>129.30</strong></td>
<td><strong>372.29</strong></td>
</tr>
</tbody>
</table>

1.2. **Outlook for the Year 2006**

Following recommendations of the Phare Management Committee to step forward to Multi-Annual Programming the Commission asked the Romanian authorities to develop
a programme outlook for the years 2004 and 2006. This outlook should in particular be described for the eight multi-annual priority sector programmes based on their respective strategies, developed in 2004 for each of the sectors with a three years time horizon.

Both parties agreed that this outlook should be based on the assumption that also in the year 2006 about 80% of the funds should be devoted to the eight priority sectors.

For the purpose of allowing to develop a realistic outlook the Commission services indicated to the NAC that the Romanian authorities could plan on the assumption that about €437 M would be available for the National Phare Programme 2006, subject to the decisions of the budgetary authority and the Commission in the respective years.

Both parties to this FM are aware that the assumptions referred to in this section are in no way binding on either of the two parties.

1.3. PRINCIPLE OF CO-FINANCING

In accordance with the Phare Guidelines, 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 eligible public expenditure. Taxes are not an element eligible for co-financing.

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

Annex 3 provides an indication of the co-financing to which the Romanian Government is ready to commit itself through the Financing Agreement.

2. IMPLEMENTING AGENCIES

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

<table>
<thead>
<tr>
<th>Implementing agency</th>
<th>Sub-programme</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Finance and Contracting Unit (CFCU) at the Ministry</td>
<td>1/Political criteria;</td>
</tr>
<tr>
<td>of Public Finance</td>
<td>3/Meeting the Obligations of the Acquis</td>
</tr>
<tr>
<td></td>
<td>4/Economic and Social Cohesion-Part 3;</td>
</tr>
<tr>
<td></td>
<td>5/Special Actions and early membership facility</td>
</tr>
<tr>
<td>National Fund at the Ministry of Finance</td>
<td>6/Community Programmes and Agencies, project 06.01</td>
</tr>
<tr>
<td>Implementing Agency of the Ministry of European Integration</td>
<td>4/Economic and Social Cohesion-Part 1</td>
</tr>
<tr>
<td>Implementing Agency for “Human Resource Development: employment and social inclusion measures” at the Ministry of Labour, Social Solidarity and Family.</td>
<td>4/Economic and Social Cohesion-Part 2</td>
</tr>
</tbody>
</table>

Simultaneously with signature of the FM, the NAC will provide the necessary details about these Implementing Agencies (addresses, communication contacts, Phare Authorising Officers, affiliation in the government etc).

In case of sub-programme “Participation in Community Programmes and Agencies”, implementation will consist in the payment of the Phare part of the financial contribution to the programmes by the National Fund.

LB
3. IMPLEMENTATION ARRANGEMENTS

3.1. METHOD OF IMPLEMENTATION

Implementation of this FM will follow Art. 53 (1) b (second alternative) of the Financial Regulation\(^2\). The Beneficiary Country will continue to ensure that the conditions laid down in Art. 164 (1) (a) - (e) of the Financial Regulation are respected at all times.

Each measure is either contained in a sector programme or a project, which the National Aid Co-ordinator proposes to the Commission in compliance with this Financing Memorandum. Once jointly agreed these sector programmes or projects are implemented by means of procurement contracts for investment and/or services, twinnings, or grant schemes, managed by the Romanian authorities. Each such sector programme or project is supervised by one or several Implementing Authority(ies) and technically implemented by one Implementing Agency.

Prior to the accreditation of Implementing Agencies foreseen by Art. 12 (2) of Regulation 1266/1999\(^3\) project selection, tendering and contracting by the Beneficiary Country will be subject to ex-ante approval by the Commission.

3.2. GENERAL RULES FOR PROCUREMENT

Procurement shall follow the provisions of Part 2, Title IV of the Financial Regulation and Chapter 3 of Part 2, Title III of its Implementing Rules\(^4\), as well as the Commission Decision SEC (2003) 387/2\(^5\).

The Contracting Authorities shall also use the procedural guidelines and standard templates and models facilitating the application of the above rules provided for in the “Practical Guide to contract procedures financed from the general EC budget in the context of external actions” (“Practical Guide”) as published on the EuropeAid website\(^6\) at the date of the initiation of the procurement or grant award procedure.


\(^6\) current address: http://europa.eu.int/comm/europeaid/tender/gestion/index_en.htm
3.3. GRANT SCHEMES

For grant schemes the precise implementation arrangements will be specified in the relevant project fiches in line with the following principles:

The procedures and formats to be used in the implementation of the schemes and award of the grants will follow the procurement rules for External Actions. In particular, due care will be given to the selection process of the projects. Grants will be awarded in conformity with the provisions of chapter 6 of the Practical Guide, and following the principles of Phare decentralised management. Prior to EDIS accreditation, the ex-ante approval of the Commission Delegation in Bucharest will be required.

The competent PAO for the programme under which the grant scheme is financed has to retain his/her contractual and financial responsibility for the implementation of the schemes. In particular, the PAO has to formally approve the call for proposals, application forms, evaluation criteria, as well as the selection process and results. The PAO also has to sign the grant agreements with the beneficiaries and to ensure adequate monitoring and financial control under his/her authority and responsibility. With this reservation, the management can be decentralised from the PAO to the appropriate bodies at sectoral or regional level.

The implementation of selected projects through provision of works, supplies and services, which are sub-contracted by the final beneficiaries of the individual grants shall be subject to the procurement rules at the time of implementation. Following a positive assessment of the Implementing Agency’s capacity to operationally and financially manage the schemes in a sound and efficient manner, the Commission Delegation may decide to waive its ex-ante approval of sub-contracting carried out by the final beneficiaries of the individual grants. The detailed provisions governing the role of the Delegation in the above-mentioned sub-contracting phase will be specified, as appropriate, in the Exchange of Letters between the Delegation and the national authorities following the above-mentioned assessment exercise.

Grant schemes will not involve projects for which the Phare/ pre-accession instrument contribution is below € 50,000 or above € 2 million. This lower limit may be waived as a result of the above-mentioned assessment of the Implementing Agency’s capacity of giving assurance of sound financial management. The lower limit is not applicable in the case of NGOs.

The financial commitments in Phare/ pre-accession instrument terms will be effected at the date of signature of the grant agreements by the competent PAO. The projects should be fully implemented before the expiry date for contract execution of the corresponding Financing Agreement.

3.4. IMPLEMENTATION PRINCIPLES FOR TWINNING PROJECTS

Twinning projects are set up in the format of a grant contract (twinning contract) whereby the selected Member State administration agrees to provide the requested public sector expertise (including the long term secondment of an official assigned to provide full time counsel to the beneficiary administration as Resident Twinning Advisor) against the reimbursement of the expenses thus incurred. This twinning contract is in line with the provisions of Article 27 of the Financial Regulation and of Part One, Title VI on grants of the Financial Regulation and its Implementing rules.

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7 see section 11 and Annex 4 of the 2005 Phare Programming Guide
Further to the provisions of Article 160, first paragraph of the aforementioned Implementing Rules, the Contracting authority shall use the rules and proceedings set out in the regularly updated Twinning Manual (which includes a system of fixed rates and prices for the reimbursement of the provided public sector expertise by the selected Member state administration for launching, selection, implementation and closing of twinning projects.

The twinning manual is available on the Website of DG ELARG at the following address:

HTTP://EUROPA.EU.INT/COMM/ENLARGEMENT/PAS/TWINNING/INDEX.HTM

4. MANAGEMENT OF ASSISTANCE

4.1. PROJECT MANAGEMENT

4.1.1. Responsibilities

The National Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring of Phare/ pre-accession instrument programmes.

The National Authorising Officer (NAO) and the NAC shall be jointly responsible for the co-ordination between Phare/ pre-accession instrument (including Phare CBC), ISPA and SAPARD, as well as the Structural and Cohesion Funds.

The NAO and the Project Authorising Officer (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the instructions of the Commission. They will also ensure that all contracts required to implement the Financing Agreement are awarded using the procedures and standard documents for External Actions in force at the time of implementation, and that EU state aid rules are respected.

4.1.2. Project Size

All projects will be funded with at least 2 M €, except Project PHARE 2005/017-553.03.06 ISC and PHARE 2005/017-553.03.08 NSC due to their pure Institution building nature.

4.1.3. Deadline for contracting and execution of contracts, programming deadline

(1) All contracts must be concluded by no later than November 30, 2007.

(2) All contracts must be executed by no later than November 30, 2008 except for investments within subprogramme 4 - part 1 and part 2 (2005/017-553.04.01 and 2005/017-553.04.02) and related investment supervision contracts of subprogrammes for which the deadline is November 30, 2009.

In no case can the contracting period for projects implemented under this programme exceed three years after the date of the global commitment (Art. 166 (2) FR). Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted (Art. 77 (3) FR).

(3) Concerning the amount foreseen under the Unallocated Envelope in project Phare 2005/017-553.05.01, projects must be programmed and Terms of Reference agreed by the Commission by no later than the date of accession.
(4) Under DIS, a complete tender dossier must be submitted to the Delegation for approval by no later than 8 months after the signature of the Financial Agreement. In case of non-compliance, the Beneficiary Country will inform the JMC, which may recommend reallocation of funds in accordance with Art. 5 of the MoU on the National Fund.

4.1.4. Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive are fully applicable for all investment projects under Phare/ pre-accession instrument. 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 1 or annex 2 of the EIA-directive, the carrying out of the EIA-procedure must be documented.

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

All investments 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.

4.2. Financial Management

4.2.1. Principles and Responsibilities

The National Fund in the Ministry of Public Finance, headed by the NAO, will supervise the financial management of the programme, and will be responsible for reporting to the European Commission. The NAO shall have the overall responsibility for financial management of the Phare/ pre-accession instrument funds, and the full accountability for the Phare/ pre-accession instrument funds of a programme until the closure of that programme.

The NAO shall ensure that the Phare rules, regulations and procedures pertaining to reporting and financial management are respected, and that a reporting and project information system is functioning.

The Commission will make payments to the NF in accordance with the Memorandum of Understanding signed between the Commission and Romania in 1998.

Payments will be made following requests from the NAO onto a separate bank account, denominated in €, which will be opened and managed by the National Fund in the Central Bank or in a bank agreed in advance with the Commission. In principle, all bank accounts will be interest bearing.

According to Articles 3 & 4 of the implementing rules of the Financial Regulation accrued interest is the property of the Beneficiary Country. The NAO must however ensure that the accrued interest is actually registered in its entirety as revenue in the national budget. Furthermore the NAO will ensure a regular reporting of the interest via Perseus.

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8 DIR 85/337/EEC; OJ L 175/40; 5.7.1985, as amended
9 in Annex EIA to the corresponding investment project fiche.
10 in Annex Nature Conservation to the corresponding investment project fiche.
4.2.2. Payments to the National Fund

A first payment\(^{11}\) of up to 20% of the funds to be managed locally\(^{12}\), will be sent to the NF following signature of the Financing Agreement and the Implementing Agreements between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts Unit (CFCU). Furthermore, the NAO must submit to the Commission the designation of the PAOs and a description of the system put in place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function between them will be carried out.

Two further payments\(^{13}\) of up to 30% of the funds to be managed locally\(^{14}\) will be made. The second payment will be triggered when 5% of the total budget in force\(^{15}\) has been disbursed by the IAs and the CFCU. The third payment may be requested when 35% of the total budget in force\(^{16}\) has been disbursed.

A final fourth payment will be made when 70% of the total budget in force\(^{17}\) has been disbursed and all contracts have been signed.

Exceptionally the NAO may request more than the percentage agreed where it can be demonstrated by a cash-flow projection that the cash-flow requirements in the subsequent period will exceed such percentage. In cases where the aggregate of the funds deposited in the NF, CFCU and IAs accounts exceeds 15% of the total budget in force for the programme the Commission may exceptionally authorise a payment, if the NAO provides duly substantiated evidence that contractual obligations cannot be met with the funds available.

4.2.3. Payments from the National Fund to the Implementing Agency

The National Fund will make payments to IAs, including the CFCU, in accordance with Implementing Agreements signed between the NF and the IAs/CFCUs. Bank accounts for sub-programmes shall be opened in the name of the relevant Implementing Agency/CFCU in charge of financial management of the sub-programme in line with Art. 13 of the MoU on the National Fund.

As long as implementation follows DIS, each individual Implementing Agreement must be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the CFCU/IA there will be no payments from the NF to the CFCU. 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 operations carried out by the relevant CFCU/IA.

\(^{11}\) representing pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation

\(^{12}\) excluding the amount foreseen for Community Programmes

\(^{13}\) representing interim payments or the renewal of pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation

\(^{14}\) excluding the amount for Community Programmes

\(^{15}\) excluding the amount for Community Programmes

\(^{16}\) excluding the amount for Community Programmes

\(^{17}\) excluding the amount for Community Programmes
4.2.4. Payments in Case of Contractual Retention Clauses

For those contracts with contractual retention clauses (e.g. funds retained for a warranty period), the Implementing Agency assumes full responsibility for managing the funds until final payment is due, as well as for ensuring that the said funds will only be used to make payments related to the retention clauses.

The IA 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.

4.2.5. Closure of Expenditure and Clearance of Accounts

No later than 16 months after the end of execution of contracts, the NF will submit a final declaration of expenditure covering both PHARE/ PRE-ACCESSION INSTRUMENT support and co-financing and an attestation regarding the regularity, accuracy and veracity of the accounts transmitted. The final certified expenditure should at this point equal the original value of the contracts minus any deductions and savings agreed with contractors in the course of implementation. This should also equal payments made plus any sums outstanding on account of contractual retention.

If the payments received from the Commission exceed the final certified expenditure, the NF shall return the excess to the Commission at the time of submitting the final declaration. If there are any outstanding payments (with the exception of contractual retention funds), the NF should provide an explanation and a forecast when payment will be finalised. The NF shall report on progress on contractual retention funds and outstanding payments on a quarterly basis. If they are not paid to the contractor, they shall be returned to the Commission.

After evaluation of the final declaration, the Commission will state its view on any expenditure to be excluded from Community funding, where it finds that expenditure has not been executed in compliance with Community rules.

The results of the Commission's checks and its conclusions to exclude expenditure from financing will be notified in writing to the NF, which shall be given one month to transmit its reply in writing.

If no agreement is reached within one month of receipt of the NF’s written reply, the Commission shall decide and establish the amounts to be excluded, having regard in particular to the degree of non-compliance found, the nature and gravity of the infringement as well as the financial loss suffered by the Community.

Following the decision about amounts to be excluded, all ineligible expenditure will be recovered without prejudice to the treatment of irregularities and subsequent financial corrections stipulated below.

The funds will be recovered either by direct reimbursement from the NF or by compensation in accordance with Community rules.

5. Monitoring and Evaluation

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

For the Phare/ pre-accession instrument programme, the JMC will be assisted by Sectoral Monitoring Sub-Committees (SMSC), which will include the NAC, the PAO of each Implementing Agency (and 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 opinions on all Phare/ pre-accession instrument financed programmes in its sector.

The Commission services shall ensure that this programme will be subject to interim (either centralised or decentralised) and/or ex post evaluations.

6. **Audit, Financial Control, Anti-Fraud Measures, Preventive and Corrective Actions**

6.1. **Supervision and Financial Control by the Commission and the European Court of Auditors**

All Financing Agreements as well as all resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-Fraud Office) and audits by the European Court of Auditors. As long as EDIS is not yet applicable to the Implementing Agencies in the Beneficiary Country, this includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Beneficiary Country.
In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (EC, Euratom) 2185/96\(^\text{18}\).

The controls and audits described above are applicable to all contractors and subcontractors who have received Community funds.

Without prejudice to the responsibilities of the Commission and the European Court of Auditors\(^\text{19}\), the accounts and operations of the National Fund and, where applicable, the CFPU and all relevant Implementing Agencies may be checked at the Commission’s discretion by the Commission itself or by an outside auditor contracted by the Commission.

### 6.2. Obligations of the Beneficiary Country

#### 6.2.1. Audit and Financial Control

In order to ensure sound financial management of the Phare/ pre-accession instrument funds, the Beneficiary Country must have a system for management and control of assistance in accordance with generally accepted principles and standards in place. This system shall in particular provide adequate assurance of the correctness, regularity and eligibility of claims on Community assistance.

The Beneficiary Country’s management and control systems shall provide a sufficient audit trail, as defined in Art. 7(2) of Commission Regulation 438/2001\(^\text{20}\).

The competent national financial control authority shall carry out appropriate financial controls of all actors involved in the implementation of the programme.

Each year an audit plan and a summary of the findings and main recommendations of the audits carried out and an outline of the follow-up given to past audit recommendations shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

#### 6.2.2. Preventive Measures

The Beneficiary Country shall take any appropriate measure to prevent and counter active and passive corruption\(^\text{21}\) practices at any stage of the procurement procedure or grant award procedure, as well as during the implementation of corresponding contracts.

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\(^{19}\) as referred to in the General Conditions relating to the Financing Memorandum” attached to the Framework Agreement


\(^{21}\) Active corruption is defined as the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Communities’ financial interests.

Passive corruption is defined as the deliberate action of an official, who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or a third party, or accepts a promise of such advantage, to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties in a way which damages or is likely to damage the European Communities’ financial interests.
The authorities of the beneficiary country, including the personnel responsible for the implementation of the programme, shall also undertake to take whatever precautions are necessary to avoid any risk of conflict of interest, and shall inform the Commission immediately of any such conflict of interest or any situation likely to give rise to any such conflict.

6.2.3. Anti-Fraud Measures and Corrective Actions

Beneficiary Countries shall, in the first instance, bear the responsibility to ensure investigation and satisfactory treatment of suspected or actual cases of fraud and irregularities following national or Community controls.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94.\(^{22}\)

In particular, all suspected or actual cases of fraud\(^{23}\) and irregularity\(^{24}\) 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 or irregularity to report, the Beneficiary Country shall inform the Commission of this fact within two months following the end of each quarter.

In case of irregularity or fraud, the Beneficiary Country shall make the necessary financial corrections required in connection with the individual irregularity. The corrections made by the Beneficiary Country shall consist in cancelling all or part of the Community contribution. The Community funds released in this way may be re-used by the NF for the purpose of the programme, in compliance with Art. 5 of the MoU on the National Fund.

6.3. Recovery of Funds in Case of Irregularity or Fraud

Any proven irregularity\(^{25}\) or fraud\(^{26}\) discovered at any time during the implementation of the programme or as the result of an audit will lead to the recovery of funds by the Commission.

If, after completing the necessary verifications, the Commission concludes that:

(a) the Beneficiary Country has not complied with the obligations to prevent, detect, and correct irregularities or

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\(^{22}\) Commission Regulation (EC) 1681/94 of 11 July 1994; 12.7.94; p. 43

\(^{23}\) Fraud shall mean any intentional act or omission relating to: 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; non-disclosure of information in violation of a specific obligation with the same effect; the misapplication of such funds for purposes other than those for which they are originally granted.

\(^{24}\) Irregularity shall mean any infringement of a provision of national or Community law, this Financing Memorandum or ensuing contracts, 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, by an unjustified item of expenditure. The term “Community law” in this context shall be defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (e.g. the Europe Agreements, Framework Agreements, the MoU on the Establishment of the National Fund etc.)

\(^{25}\) see definition above

\(^{26}\) see definition above
(b) the implementation of a project appears not to justify either part or the whole of
the assistance allocated or
(c) there are serious failings in the management or control systems which could lead
to irregularities,

the Commission may suspend further financing of the programme in question, and,
stating its reasons, request that the Beneficiary Country submit comments and, where
appropriate, carry out any corrections within a specified period of time.

If no agreement is reached by the end of the period set by the Commission and if the
required corrections have not been made, the Commission may – taking into account any
comments made by the Beneficiary Country – decide within three months to:

(a) reduce or cancel any payment for the programme in question, or
(b) make the financial corrections required by cancelling all or part of the assistance
granted to the programme concerned.

The Commission shall, when deciding on the amount of a correction, take into account
the principle of proportionality, the type of irregularity and the extent and financial
implications of the shortcomings found in the management and control system of the
Beneficiary Country.

In the absence of a decision to do either (a) or (b), further financing of the programme
shall immediately resume.

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 the 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 payment shall be charged on sums not repaid by applying the
rules specified in the Financial Regulation.

7. Visibility and Publicity

The PAO in charge 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. Further details are set down in the
Annex on Visibility and Publicity.

8. Special Conditions

1) Contracting of Phare investment support under Economic and social cohesion is
conditioned upon the signature of the service contracts between the implementing agency
and Regional Development Agencies, (as described under Phare 2005/017-553.04.01).

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

3) In case of major disaster damages such as floods the NAC within the limits of article 5
MoU National fund may advise the NAO to propose a transfer of funds to be used under
this Financing Agreement to a Disaster Rehabilitation Fund, which the Romanian
Government may maintain complying with the rules of sound financial management.
ANNEX D ON

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

1. Objective and scope

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

2. General principles

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

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

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


Specific provisions concerning ISPA are included in:


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 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.
### Annex E

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<th>Measure</th>
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<th>Total Phare</th>
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Annex F

Updated Benchmarks* to be agreed before signature of

the Financing Agreement for the full Phare 2005 National Programme

a)  - 80% Tender Dossiers for 2004 Phare at ECD for ex-ante approval by 30 April 2006

b)  - 40% of ToR/TS for Phare 2005 of CFCU at ECD for ex-ante approval by 30 April 2006

    - 60% of ToR/TS for 2005 Phare ESC/MEI at ECD for ex-ante approval by 30 April 2006

c)  Contracting benchmarks:

    - 30% of 2004 FM (except for Phare ESC/MEI and MLSSD) contracted at 10 April 2006.

    - 50% of Phare CFCU/MLSSF 2004 contracted at 30 June 2006

    - 10% of 2004 Phare ESC/MEI contracted at 30 June 2006

    - 65% of 2004 Phare ESC/MEI with tenders launched by 30 June 2006.

d)  Decreasing trend of Rejection rates, approaching 2% for evaluation reports, and contract dossiers, before the JMC of mid April.

* "updated" in respect to the guidelines for the JMC as agreed in April 2005.
Guidelines for the Joint Monitoring Committee

to assess the implementation capacity of the Phare funds management

in the light of strongly increased funds

allocated for the years 2004 to 2006 to Romania

The Financing Memoranda for the budgetary years 2003 and 2004 between the Romanian Government and the European Commission (EC) entrust the Romanian administration with their implementation under a Decentralised Implementation System (DIS) with ex-ante approval of procurement transactions by the EC Delegation in Bucharest.

The Romanian Government intends to enforce its administration to apply for EDIS accreditation; however, already the DIS set up as operated at present has to be reinforced in order to ensure high quality management and appropriate staff capacity for a volume of more than 400 Mio € per year.

In order to allow as of 2006 an appropriate implementation of the increased Phare funds, a rigorous reconfiguration of the management set up has to be accomplished. This includes adapting the work capacities to the requirements and stronger self-responsibility, two important elements of sound financial management. The Romanian government is committed to make all necessary efforts to meet the requirements.

The two parties to the FMs herewith agree to establish a system of benchmarking, which allows monitoring of the performance of the management system in the following years of Phare implementation. This benchmarking system will (i) monitor the performance of the implementation of the 2003 and 2004 funds, in order to assess if requirements emerging from the volume and timing of further allocations of Phare funds in 2005 and 2006 are met and (ii) will provide a quantitative tool to the Joint Monitoring Committee as basis to come to conclusions and make recommendations on the management system and its necessary features for the years to come.

For any sound financial management of Phare funds the Commission considers the following as a mandatory prerequisite:

- The Romanian Government will ensure adequate working means for all structures involved in the management of the Phare funds (NAC, National Fund, Implementing Agencies/Authorities), as well as the necessary technical resources at national and regional level (e.g. communications, IT equipment, office supplies etc.).

- The Romanian Government is expected to accelerate in the coming months the segregation of functions, the development of the written procedures and any other preparation for EDIS accreditation, with the overall objective of strengthening its capability of quality control and high volume operations.

The benchmarking scheme will monitor the following components:
A. Staff Strengthening:

1. Finalization of implementation arrangements to effectively put in place law 490 on increase of salary for Romanian civil servants involved in the management of EU funds, by 14/04/2005

2. Romanian proposal on the salary incentive scheme combining national budget sources and Phare 2004 FM Proposal submitted to the Commission for the JMC meeting of 14/04/2005

3. The Romanian authorities will present an analysis of staffing requirements for the management of Phare in particular in view of the need for managing strongly increased funds as of budgetary year 2004. This analysis will be complemented by an overview on the current approved staff establishment and staff on post and detailed recruiting plans in order to ensure that adequate staff levels are in place by 31.12.2005. Implementation will be reviewed at each subsequent JMC meeting.

B. Efficiency/Implementation Capacity

1. Approx. *50% of the total value (Phare and National funding) of the 2003 FM (NP+CBC) will be contracted* before 16/09/2005

2. Approx. *30% of the total value (Phare and National funding) of the 2004 FM (NP+CBC) will be contracted* before 28/02/2006

3. Approx. *50% of the total value (Phare and National funding) of the 2004 FM (NP+CBC) will be contracted* before 30/06/2006

4. The Delegation of the European Commission in Bucharest will give its ex-ante decision under DiS conditions, within 15 working days*2, counted from the date of reception of the dossier. Contract dossiers to be included in the overall contracting statistics will have to be introduced by the IAs to the Delegation with a minimum of three weeks in advance.

C. Quality Control

1. Monthly rejection rates on procurement documents submitted to the Delegation for ex-ante approval shall show a clear decreasing trend, starting with the period March-August 2005 and following further with a view of reaching a figure lower than 2% before EDIS accreditation will be granted. Each JMC, and in particular the JMC of September 2005, shall examine the results, express its opinion and, if needed, detail more precisely the criteria to be used to measure the quality control performance.

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* A maximum undershooting of the target by 3% will be tolerated, if properly justified
1 Contract signed by both parties
2 Except for particularly complex dossiers
2. These results will be also verified monthly at the joint Phare Coordination and Quality Monitoring Group meetings between NAC, NAO, implementing agencies and the Delegation. Warnings to the NAO in case of unexpected continuing quality weaknesses will be issued for immediate action.

D. Management milestones

1. The Implementation agreement between the National Fund and the Ministry of Labour, installing Implementing Agency at the Ministry of Labour, and between the Ministry of Labour and the 8 regional employment Agencies, installing the respective 8 implementation authorities, will be in force before 14th April 2005.

2. The implementation agreements/contracts between the Ministry of European Integration and the 5 CBC/NNI Regional Offices, setting up the 5 implementing authorities and relative Joint Technical Secretariats (JTS) for the CBC/NNI programme 2004 will be in force before the 14th of April 2005.

3. The National Aid Coordinator and the National Authorizing Officer (NAO) will present a tendering plan for the FM 2004 (Phare and National funding) as soon as possible and not later than the 1st of July 2005, as required from article 5.1.3 (3) of the FM. This tendering plan will contain for each programme/project of the FM a contracting date until which procurement procedures are finalised, which provides the basis for a contracting profile for the FM2004. This contracting profile will be monitored and the cumulative contracting profile should never be less than 10% below the projected contracting profile.

The Romanian Government and the European Commission will monitor, together, the achievement of these targets within the Joint Monitoring Committee meetings and will take all the necessary measures in order to attain them. In particular, the National Aid Coordinator and the National Authorizing Officer will be responsible for permanently monitoring the progress made on the Romanian side in achieving these benchmarks.

The Commission, on the basis of these elements and other elements contained i.a. in article 164.1 of the financial regulation and article 12 of Council Regulation 1266/99 will assess, if the required standard for sound financial management of Phare funds at a level of 400/450 Mio annually are reached.

A first preliminary assessment will be presented at the JMC in April 2005, when the deadlines and milestones included in the presented Strategic Action Plan will also be discussed and approved. A second assessment, including a detailed review of the EDIS certification calendar, will be held at the JMC of September 2005. This JMC may also, as appropriate, fix further monitoring points in the following years.

Before signing the Financing Agreements for the years 2005 and 2006 the Commission services will perform an in-depth assessment of the Phare funds management system as operational at that time, on the basis of which the calendar and the volume of the allocated Phare funds 2005 and 2006 may be adapted, as appropriate, in order to ensure their adequate management.