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

HAVE AGREED AS FOLLOWS:

The measure referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out in this 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 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:

Programme number: 2005/17-519.01
Title: Programme for Community support in the field of Nuclear Safety for Bulgaria
Duration: Until 30/11/2007

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 3,925,000 € hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 30/11/2007 subject to the provisions of this Agreement. All contracts must be signed by this

1 The Financing Agreement structure is as follows: 1. the coverpages with the references to the country concerned, amount and authority to sign, 2. Framework Agreement incl. Annex A and Annex B; Annex C - Special Conditions (the text of the adopted financing proposal starting from Description and Objectives onwards; and Annex D 'Visibility/Publicity.
date. Any balance of funds of the EC GRANT, which have not been contracted by this date shall be cancelled.

The deadline for execution of contracts of THE EC GRANT is 30/11/2008. 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 COMMUNITY:**

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

*Tel: (+359. 2) 933 5252*  
*Fax: (+359.2) 933 5233*

**for THE RECIPIENT:**

*Mr Plamen Oresharski*
Minister of Finance (National Aid Co-ordinator)  
Ministry of Finance  
102, Rakovski St.  
1040 Sofia  
Bulgaria

**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 Sofala
Date 23.4.2005

for THE RECIPIENT

........................

PLAMEN CRESNARSKI
MINISTER OF FINANCE

Done at ............... Date

for THE COMMUNITY

........................


Encl.
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)
FRAMEWORK AGREEMENT

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

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

and together jointly referred to as "THE CONTRACTING PARTIES"

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

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

HAVE AGREED AS FOLLOWS:

ARTICLE 1

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

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

ARTICLE 2

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

The financing memorandum may vary or supplement the General Conditions as may be necessary for the implementation of the MEASURE in question.
ARTICLE 3

For matters relating to the MEASURES financed within the framework of this Agreement, the COMMISSION shall be represented by its Delegation (once this is established) in Bulgaria which shall ensure, on behalf of the COMMISSION, that the MEASURE is executed in accordance with sound financial and technical practices.

ARTICLE 4

When the Contracting Parties so agree, the COMMISSION may delegate all or part of its responsibility for implementation of a MEASURE to a third party, state or agency.

In that event the terms and conditions of such delegation shall be set forth in an agreement to be concluded between the COMMISSION and the third party, state or agency, subject to the consent of the Government of the Republic of Bulgaria.

ARTICLE 5

Any dispute relating to this Agreement which cannot be resolved by consultation shall be settled according to the arbitration procedure referred to in Annex B.

ARTICLE 6 – NUMBER OF COPIES

This Agreement is drawn up in the English and Bulgarian languages in two original copies. In case of divergencies between the two language versions, the English text prevails.

ARTICLE 7 – VALIDITY

This Agreement shall enter into force on the day the Contracting Parties inform each other of its approval in accordance with the existing internal legislation or procedure of each of the Parties. The Agreement shall continue to be in force for an indefinite period unless terminated upon written notification by one of the Contracting Parties to the other.

On termination of this Agreement any MEASURE still in the course of execution shall be carried out to its completion in accordance with the terms of the financing memorandum relating thereto, and of the General Conditions set out herein.
ARTICLE 8

The provisions of this Agreement shall also apply to technical cooperation and other operations convened between the Parties which by their nature are not covered by a specific memorandum financed under the PHARE aid programme at the request of the Government of the Republic of Bulgaria.

The Annexes shall be deemed an integral part of this Agreement.

FOR THE REPUBLIC OF BULGARIA

FOR THE COMMISSION OF THE EUROPEAN COMMUNITIES

At. PAPARIZOV
ANNEX A

GENERAL CONDITIONS RELATING TO FINANCING MEMORANDA

In these General Conditions the term "THE RECIPIENT" shall be understood as referring to the Government of Bulgaria.

TITLE I - FINANCING OF PROJECTS

ARTICLE 1 - COMMITMENT OF THE COMMUNITY

The commitment of the Community, hereinafter referred to as "the EEC Grant", the amount of which is laid down in the financing memorandum, shall determine the limit within which commitment and execution of payments shall be carried out through duly approved contracts and estimates.

Any expenditure over and above the EEC Grant shall be borne by THE RECIPIENT.

ARTICLE 2 - AVAILABILITY OF THE EEC GRANT

Where the execution of a MEASURE depends on financial commitments from THE RECIPIENT'S own resources or from other sources of funds, the EEC Grant shall become available at such time as the financial commitments of THE RECIPIENT and/or the other sources of funds, as set out in the financing memorandum, themselves become available.

ARTICLE 3 - DISBURSEMENT

Contracts are eligible for disbursements under this financing memorandum only if they are concluded before the expiry date of the Financing Memorandum. Disbursements on such contracts may take place during a maximum period of 12 months after the expiry date of the Financing Memorandum. Any exceptional extension of this period must be approved by the Commission.

Within the limit set on the EEC Grant, requests for funds in the form of a work programme shall be presented to the Commission Delegation by the RECIPIENT in accordance with the schedule set out in the financing memorandum. Documentary evidence relating to payments made in respect of THE MEASURE shall be made available in support of the request for funds, where the Commission so requires.

However, certain contracts covered by THE MEASURE may provide for direct payment by THE COMMISSION to the contractors. Each contract shall lay down the rate and the time of such payments, together with the documentary evidence to be produced.

For the part of the programme implemented by the Recipient, the Implementing Authority shall submit in a Work Programme and not later than 9 months before the expiry date of the Financing Memorandum, for approval by the Commission the contracts that still have to be concluded for the implementation of the programme. The Work Programme should include proposals for the utilisation of the net interests accrued on the accounts opened in the implementation of the programme, under the condition that the whole of the EC grant will be previously committed.

As regards MEASURES executed on the basis of prepared estimates, a first payment instalment which, save where the financing memorandum otherwise provides, shall not exceed 20% of the amount of the estimate approved by THE COMMISSION, may be made in favour of THE
RECIPIENT in order to facilitate the launching of THE MEASURE. Other payment instalments shall be made available, at the request of THE RECIPIENT, subject to the same conditions set out in the paragraph 2 above.

**TITLE II - PROCUREMENT**

**ARTICLE 4 - GENERAL**

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

**ARTICLE 5 - CONDITIONS OF PARTICIPATION**

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

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

**ARTICLE 6 - DEROGATION FROM STANDARD PROCEDURES**

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

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

Such derogation shall be laid down in the financing memorandum.

**ARTICLE 7 - AWARD OF WORKS AND SUPPLIES CONTRACTS**

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

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

**ARTICLE 8 - TECHNICAL-COOPERATION CONTRACTS**

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

2. Contracts shall be drawn up, negotiated and concluded either by THE RECIPIENT or by THE COMMISSION when the financing memorandum so provides.
3. Where contracts are to be drawn up, negotiated and concluded by THE RECIPIENT, THE COMMISSION shall put forward a short list of one or more candidates on the basis of criteria guaranteeing their qualifications, experience and independence and taking into account their availability for the project in question.

4. When there is to be a direct negotiation procedure and THE COMMISSION has proposed several candidates, THE RECIPIENT may freely choose the candidate with which it intends to conclude the contract from among those put forward.

5. When there is recourse to a tendering procedure, the contract shall be awarded to the candidate which has submitted the offer which is acknowledged by THE RECIPIENT and THE COMMISSION to be economically the most advantageous.
TITLE III - GRANT OF FACILITIES

ARTICLE 9 - GENERAL PRIVILEGES

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

ARTICLE 10 - ESTABLISHMENT, INSTALLATION, ENTRY AND RESIDENCE FACILITIES

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

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

ARTICLE 11 - IMPORT AND RE-EXPORT OF EQUIPMENT

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

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

ARTICLE 12 - IMPORTS AND EXCHANGE CONTROL

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

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

ARTICLE 13 - TAXATION AND CUSTOMS

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

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

- THE RECIPIENT shall ensure that the imports concerned will be released from the point of entry for delivery to the contractor as required by the provisions of the contract and for immediate use as required.
for the normal implementation of the contract, without regard to any delays or disputes over the settlement of the above-mentioned duties, taxes or charges.

3. Contracts for supplies or services provided by Bulgarian or external firms, financed out of the EC Grant shall not be subject in the state of THE RECIPIENT to value added tax, documentary stamp or registration duties or fiscal charges having equivalent effect, whether such charges exist or are to be instituted.

4. Natural and legal persons, including expatriate staff, from the Member States of the European Community executing technical cooperation contracts financed out of the EEC Grant shall be exempted from business and income tax in the state of THE RECIPIENT.

5. Personal and household effects imported for personal use by natural persons (and members of their immediate families), other than those recruited locally, engaged in carrying out tasks defined in technical cooperation contracts shall be exempt from customs duties, import duties, taxes and other fiscal charges having equivalent effect, the said personal and household effects being either re-exported or disposed of in the state in accordance with the regulations in force in the state of THE RECIPIENT after termination of the contract.

6. Natural and legal persons importing professional equipment, as provided for in Article 11, shall, if they so request, benefit from the system of temporary admission as defined by the national legislation of THE RECIPIENT in respect of the said equipment.

**TITLE IV - EXECUTION OF CONTRACTS**

**ARTICLE 14 - ORIGIN OF SUPPLIES**

THE RECIPIENT agrees that, save when otherwise authorized by THE COMMISSION, materials and supplies required for execution of contracts must originate in the Community, Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and the Former Yugoslav Republic of Macedonia.

**ARTICLE 15 - PAYMENT PROCEDURES**

1. For contracts financed out of the EEC Grant, tenders shall be drawn up and payments made, either in European Currency Units (ECU), or in accordance with the foreign exchange laws and regulations of the RECIPIENT in the currency of THE RECIPIENT, or in the currency of the state where the tenderer has his registered place of business, or in the currency of the state where the supplies were produced.

2. When tenders are drawn up in ECU, payments relating thereto shall be made, as appropriate, in the currency named in the contract, on the basis of the equivalent value of the ECU on the day preceding payment.

3. THE RECIPIENT and THE COMMISSION shall take all measures necessary to ensure execution of payments within the shortest possible time.
TITLE V - COLLABORATION BETWEEN THE COMMISSION AND THE RECIPIENT

ARTICLE 16 - INSPECTION AND AUDIT

1. THE COMMISSION shall have the right to send its own agents or duly authorised representatives to carry out any technical or financial mission or audit that it considers necessary to follow the execution of THE MEASURE. However, THE COMMISSION shall give the authorities of THE RECIPIENT advance notice of such missions.

THE RECIPIENT shall supply all information and documents which shall be requested of it, and take all suitable measures to facilitate the work of persons instructed to carry out audits or inspections.

2. THE RECIPIENT shall:

(a) maintain records and accounts adequate to identify the works, supplies or services financed under the financing memorandum in accordance with sound accounting procedures;
(b) ensure that the aforementioned agents or representatives of THE COMMISSION have the right to inspect all relevant documentation and accounts pertaining to items financed under the financing memorandum, and assist the Court of Auditors of the European Communities to carry out audits relating to the utilization of the EEC Grant.

The Commission may also carry out an ex-post evaluation and a final audit of the programme. The ex-post evaluation will assess the achievement of the objectives/targets of the programmes as well as the impact on the development and restructuring of the sector concerned.

The final audit will review the local financial data of the programme, providing an independent opinion on the reliability and consistency of contracts and disbursements as well as their compliance with the provisions of the Financing Memorandum. The audit will establish the balance of uncommitted and/or undisbursed funds which shall be reimbursed to the Commission.

ARTICLE 17 - FOLLOW-UP OF MEASURES

In following the execution of THE MEASURE, THE COMMISSION may request any explanation and, where necessary, may agree with THE RECIPIENT on a new orientation for THE MEASURE which is deemed to be better adapted to the objectives in view.

THE RECIPIENT shall make reports to THE COMMISSION following the time-schedule laid down in the financing memorandum, throughout the period of execution of THE MEASURE and after completion thereof.

The Commission will in the light of the reports and where appropriate of the ex-post evaluation, proceed to the official closure of the programme and will inform the recipient country of the date of official closure of the programme.

TITLE VI - GENERAL AND FINAL PROVISIONS

ARTICLE 18 - CONSULTATION - DISPUTES

1. Any question relating to execution or interpretation of the financing memorandum or these General Conditions shall be the subject of consultation between THE RECIPIENT and THE COMMISSION, leading, where necessary, to an amendment of the financing memorandum.

2. Where there is a failure to carry out an obligation set out in the financing memorandum and these General Conditions, which has not been the subject of remedial measures taken in due time, THE COMMISSION may suspend the financing of the MEASURE, after consultation with THE RECIPIENT.
3. THE RECIPIENT may renounce in whole or in part the execution of THE MEASURE. The Contracting Parties shall set out the details of the said renunciation in an exchange of letters.

ARTICLE 19 - NOTICE - ADDRESSES

Any notice and any agreement between the parties provided for herein must be the subject of a written communication referring explicitly to the number and title of THE MEASURE. Such notices or agreements shall be made by letter sent to the party authorized to receive the same, and sent to the address notified by the said party. In case of urgency, telefax, telegraphic or telex communications shall be permitted and deemed to have been validity served, provided that they are confirmed immediately by letter.

The addresses are set out in the financing memorandum.
ANNEX B

ARBITRATION

Any dispute between the Contracting Parties, arising out of the Framework Agreement or a financing memorandum, which is not settled by applying the procedures laid down in Article 16 of the general conditions relating to financing memorandum, shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

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

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

—an arbitrator shall be appointed by THE RECIPIENT

—a second arbitrator shall be appointed by THE COMMISSION

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

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

Should any arbitrator in accordance with this provision resign, die or become unable to act, another arbitrator shall be appointed in the same manner as the arbitrator whose place he takes; such successor shall have all the powers and duties of the original arbitrator.
1. OBJECTIVES AND DESCRIPTION

1.1. Objectives

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

The specific objectives of this programme are to

- enhance the factors affecting regulatory effectiveness as spelled out, for instance, in the conclusions of the CONCERT Group\(^1\);
- improve radioactive waste management;
- heighten off-site emergency preparedness.

Details of the specific objectives and description of the projects are to be found in the corresponding project fiches.

Indicators of achievement

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

There are no Community common technical standards covering safety in the operation of nuclear installation, regulatory practices or radioactive waste management. Consequently deriving benchmarks from such standards is not possible. With regard to regulatory practices, there are a number of different regulatory approaches according to practices in Member States reflecting their specific legal and technical traditions although there is a high degree of convergence on the substance of requirements. Nuclear Safety Authorities from candidate countries adapt to their local requirements best practice transferred from EU member state regulators.

1.2. Description of Projects

The revised PHARE Guidelines acknowledge that pre-accession financial assistance in the field of nuclear safety demands a specific approach. The projects have been chosen for being sufficiently mature and able to contribute to a sustainable improvement to the level of nuclear safety within their specific objectives. Most projects pertain to the field of institution building, supporting either the nuclear safety authority or public bodies entrusted with specific duties regarding radioactive waste management or similar tasks.

This programme allocates financial assistance to the following projects:

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\(^1\) Conclusions of the 17\(^{th}\) CONCERT Group meeting, June 29-30 2000. These factors are:

- "To be effective, a regulatory body must have a well-defined task, well-defined work and assessment processes, be independent from the energy producers, political power and pressure groups, be transparent and open, and have the adequate means, in terms of budget and competent and well motivated staff to perform its task."

- An effective regulatory body is one that ensures an acceptable level of safety, acts to prevent degradation of safety, promotes safety improvements, is timely and cost effective, ensures the confidence of operators, general public and government, and strives continuously for improved performance.

- A regulatory system is effective when the utilities consistently do all that they should to maintain or improve safety. Nevertheless, the performance of the plant operators depends also on other factors, and it is difficult to use it to assess the effectiveness of the regulatory body.

- International co-operation and international peer reviews play an important role in the development and maintenance of an effective regulatory body."
Country-specific component (01.02.03):

Bulgaria 017-519.01

017-519.01.01 Assistance to the BNRA in establishing of the regulatory requirements on the base of assessment of the Probabilistic Safety Assessment Reports of KzNPP units 5 and 6

The aim of this proposal is to assist the Bulgarian Nuclear Regulatory Agency (NRA) in the process of the review of the level 1 Probabilistic Safety Assessment (PSA) reports for units 5 and 6 of Kozloduy Nuclear Power Plant (NPP). The project will provide EU regulatory and technical expertise to improve NRA capabilities in the area of PSA through on-the-job training and other activities, including the preparation of guidelines for review and assessment of PSAs.

These are the main activities of the project:

- Assistance for the review and assessment of the main chapters of the PSA reports for units 5 and 6 of Kozloduy NPP: (1) management and organisation; (2) identification of sources of radioactive releases and accident initiators; (3) accident sequence modelling; (4) data assessment and parameter estimation; (5) accident sequence quantification; and (6) documentation of the assessment: display and interpretation of results.

- Assistance for the development of a complete guide for review and assessment in order to (1) estimate the effectiveness of review and assessment of the Task 1; (2) conduct the systematic analysis of the review and assessment methodology; (3) select the most advanced international requirements and to propose the structure and format of the developed guide; and (4) submit the results to NRA for their consideration.

The beneficiary organisation of the project is NRA.

017-519.01.02 Technical assistance to SERAW for establishment of an emergency response preparedness system for radiological accidents

The national Bulgarian agency for radioactive waste management (SERAW) was created in 2004. This agency is responsible not only for the disposal of radioactive waste but also for all previous management steps including treatment, conditioning and storage. In this context, SERAW has to comply with new Bulgarian regulations in particular with those related to emergency management. In order to perform its activities, SERAW needs assistance to:

- Assess the current situation regarding emergency planning and the breakdown of responsibilities between all Bulgarian stakeholders.
- Analyse new regulatory requirements and evaluate the emergency plans;
- Assess the existing communication system in place between the different sites (Kozloduy and Novi Han) and SERAW HQs;
- Develop technical specifications for special equipment as well as procedures and management support system for emergency planning.
The above four tasks constitute the substance of the project to be funded by the Phare programme.

The beneficiary organisation of the project is SERAW.

017-519.01.03 Completion of the upgrading programme for the Novi Han repository

The Novi Han repository is the main facility for the management of institutional radioactive waste in Bulgaria. Since this facility does not comply with current Bulgarian safety requirements for storage and disposal, a large upgrading programme is currently being implemented notably through support from the Phare nuclear safety programme over the years 2001-2004. At present, the design of the buildings that will be constructed for the characterisation, treatment, conditioning, packaging and storage operations for institutional radioactive waste is underway. The definition of the technical specifications for the equipment to be installed should be completed soon. Construction of the buildings should take place in 2006 - 2007. The current project mainly aims at supplying equipment and developing the appropriate technical documentation in order to complete the upgrading of the Novi Han facility. In this way the facility could be licensed by the end of 2008.

The list of equipment to be supplied through this project should include equipment for waste treatment, conditioning and packaging, and for the dismantling of gamma irradiators.

The beneficiary organisation of this project is SERAW.

Croatia 017-519.02

017-519.02.01 Border Control of Nuclear and other Radioactive Materials with mobile portal monitor

The aim of this project is to augment the capacity of Croatian border guards units to detect illicitly smuggled radioactive materials. Croatia is about to install a limited number of fixed portals to help dismantle smuggling networks that are known to use Croatian territory as part of an extended route. Portable monitors would very considerably augment national capabilities, as it is not practical to install fixed monitors at all major crossing points in view of the extended border of Croatia.

The beneficiary organisation of the project is State Office for Radiation Protection whose legal remit is to train and oversee the specialised units dealing with detection of illicit trafficking.

017-519.02.02 Installation of the RODOS System in the Republic of Croatia

The Krško Nuclear Power Plant (KNPP) is located approximately 12 km. from Croatian territory. Approximately 100,000 persons live within a radius of 25 km; Zagreb is located within a radius of 50 km; in all, more than 1 million live within an area that could be subject to emergency measures in case of an important nuclear accident at KNPP. Installing RODOS
in Croatia would allow substantial upgrade of the decision support tools presently available to the competent Croatian authorities involved in preparing for nuclear emergencies. Additionally, in view of the adoption of RODOS by several other countries in the region Croatian use would allow for rapid exchange of data during emergency situations, as well as enhance participation in regional nuclear exercises. As Croatia is 50% owner of KNPP, access to data from the power plant monitors is complete and unquestioned.

The beneficiary organisation of the project is Nuclear Safety Department (Ministry of Economy, Labour and Entrepreneurship).

**Romania 017-519.03**

**017-519.03.01 Support for regulatory authority staff to improve its capabilities with the view of probabilistic safety assessment**

The aim of this proposal is to assist the Romanian Nuclear Safety Authority (CNCAN) in the review process of the level 1 Probabilistic Safety Assessment for Cernavoda Nuclear Power Plant (NPP). The project will provide EU regulatory and technical expertise to improve the NRA capabilities in the area of PSA through on-the-job training and other activities including the preparation of a procedure for regulatory review.

These are the main activities of the project:

- Assistance for the evaluation of the PSA for Cernavoda NPP, through transfer of EU regulatory practices to the CNCAN.
- Assistance for the improvement of the regulatory framework by supporting CNCAN staff in: (1) elaboration of the regulatory procedure for PSA review; and (2) finalization of a norm on “Regulatory Requirements for Probabilistic Safety Assessment”

The beneficiary organisation of the project is CNCAN.

**017-519.03.02 Improvement of CNCAN capabilities in the field of safety assessment of the Baita Bihor disposal facility**

The Baita Bihor repository for institutional radioactive waste in Romania is being subject to a safety assessment via the Phare project entitled “Preliminary Safety Analysis Report (PSAR) for the low-level radioactive waste repository Baita Bihor”. This project should lead to the submission of the PSAR to CNCAN by mid 2006. Based on the PSAR, CNCAN will have to decide whether the repository can be licensed for operation and under which conditions. Since at present CNCAN capabilities in this particular domain are rather weak, this project primarily aims at assisting CNCAN in the reviewing of the PSAR. In addition since the Baita Bihor repository has some common features with the Richard repository being operated in the Czech Republic for the same category of radioactive waste, it is considered worthwhile to compare the methodologies for safety assessment established for both repositories. In this context, it is expected to hold a technical workshop gathering experts from both facilities. This activity will contribute to enhance the level of expertise of CNCAN in the field of safety assessment of repositories based on concrete and similar cases.
The beneficiary organisation of the project is CNCAN.

017-519.03.03 Development of CNCAN capabilities regarding the regulatory aspects of Naturally Occurring Radioactive Materials (NORM) and Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) related activities

In Romania, NORM and TENORM are used and/or produced in different facilities, such as chemical fertilizer factories, iron and steel factories, porcelain factories, oil industry facilities and other non-uranium mining and milling facilities. The project will mainly consist in providing assistance to CNCAN in order to perform:

- A comprehensive study assessing the extent of the radiological consequences of the existence of large quantities of NORM and TENORM on the territory of Romania.
- A review of the existing regulatory documents and possibly the drafting of new ones based on regulations in force in EU countries that are confronted with the same problems.

The project includes also training activities for CNCAN experts involved in the licensing of activities that are generating NORM and TENORM.

The beneficiary organisation of the project is CNCAN.

017-519.03.04 Improvement of CNCAN database related to the operation of the national register of doses and radioactive sources

At present, CNCAN uses a Microsoft Access database named EVNUC for the registration of occupational doses and management of sealed radioactive sources – including spent sealed radioactive sources – that are in use on the territory of Romania. This database proved to be inadequate for a number of reasons and therefore the main objective of this project is to support CNCAN in the designing and installation of a new database that will meet Romanian requirements. This database should in particular cover infrastructure information, facilities of concern, management of sealed radioactive sources and associated equipment, authorisation, procedures, inspection, incidents, and occupational exposure. It should also be designed in such a way that it can easily integrate all information contained in EVNUC and provide five secured access levels (CNCAN regulators including those in charge of radioactive waste management, administrators, users, technical services and the general public).

The beneficiary organisation of the project is CNCAN.

Multi-country component (04)

017-532 Management of medical radioactive waste in Bulgaria, Croatia and Romania

The overall objective of the project is to review current practices and regulations on management of medical radioactive waste in Bulgaria, Croatia and Romania in order to identify possible areas for which improvement and/or optimisation would be desirable notably
in the light of the experience gained in the 10 new EU Member States. The project will consist in three different activities:

- Exploratory study concerning management of medical radioactive waste in the concerned countries.
- Presentation of the results of the investigations before relevant regulatory authorities from Member States and Candidate Countries on the occasion of a technical seminar.
- Establishment of a list of topics for which improvement and harmonisation with other EU Member States would be desirable.

The project would support the work of the different Ministries of the Candidate Countries in charge of developing regulations and policies concerning management of radioactive waste in medical establishments.

1.3. Assumptions and risks

The programme assumes that the beneficiary countries will maintain their efforts to ensure a high level of nuclear safety and, in the case of Bulgaria and Romania, to implement the recommendations of the June 2001 Council Report on Nuclear Safety in the Context of Enlargement. The Peer Review Status Report, established by the Council’s Atomic Questions Group and its ad-hoc formation Working Party on Nuclear Safety on 5 June 2002, found that the candidate countries concerned are clearly committed to fulfil the recommendations set out in the Council Report, both for nuclear power plants and other types of installations. The status report also noted that all candidate countries had accepted the recommendations. In the case of Bulgaria a further peer review report on nuclear safety was produced by the Council in March 2004 on the basis of the Council Peer review mission to Bulgaria in November 2003. This programme assumes that the beneficiary countries will continue to pay sufficient attention and devote appropriate effort to the timely implementation of the supported projects.

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

1.4. Conditionalities

The effective launching of some of the projects listed above is subject to particular conditions that are described, in more detail, in the respective project fiches. In particular, the proper implementation of project 017-519.01.03 (Bulgaria) requires timely implementation of PHARE project 2002/632.01.01 and the issue of related regulatory permits. Project 017-519.02.02 (Croatia) requires an agreement between competent national authorities in Croatia to ensure access by the RODOS modelling team to meteorological data as well as soils type models and food chain models. In the case of Romania, the implementation of project 017-519.03.02 is subordinated to the delivery of the corresponding preliminary safety analysis report in due time. In general the construction of new facilities requires the preparation, beforehand, of the corresponding preliminary safety analysis reports and environmental impact assessments.
2. BUDGET (€)

2.1 Budget table

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2.2 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.

3. IMPLEMENTATING AGENCIES

For the country-specific component, the Central Financing and Contracting Agencies (CFCUs) within the Ministry of Finance will be the implementation agencies responsible for tendering, contracting and financial reporting.

For the multi-country component, the Commission will be responsible for the implementation of the centralised component of the programme.
4. IMPLEMENTATION ARRANGEMENTS

4.1. Method of implementation

The bulk of this Financing Proposal is for a horizontal programme. The projects will be implemented through the PHARE national programme structures. This Financing Proposal will be split on a country-by-country basis leading to three separate Financing Memoranda, as set out in the table above. Solely, for the multi-country element of this programme the Commission Headquarters will centrally implement, manage and co-ordinate through unit D.3 “Horizontal Programmes and Contracts” of DG Enlargement on behalf of the beneficiary countries.

For the country-specific component, implementation of the programme 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. 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.

For the multi-country component, the programme will be implemented by the European Commission following Article 53.1 (a) of the Council Regulation (EC, Euratom) Nr. 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Commission (the Financial Regulation: FR) as further detailed in the rules for the implementation of Council Regulation on the Financial Regulation applicable to the general budget of the EC (Implementing Rules: IR).

4.2. 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.

For the country-specific component, in line with Art. 164 of the Financial Regulation, the Commission may decide to allow the Contracting Authorities entrusted with decentralised management responsibilities to execute procurement in accordance with national legislation and guidelines transposing the European Union Public Procurement Directives.

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\(^6\) current address: http://europa.eu.int/commission/europeaidd tender/gestion/index_en.htm
5. MANAGEMENT OF ASSISTANCE

5.1. Project Management

5.1.1. Responsibilities

The national Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring of PHARE programmes.

The National Authorising Officer (NAO) and the NAC shall be jointly responsible for the co-ordination between PHARE (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 Memorandum 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.

As indicated above, the Commission Services (Unit D.3 “Horizontal Programmes and Contracts” of DG Enlargement) will be responsible for the programming and implementation of the multi-country element of the programme.

5.1.2. Project Size

Although in general the size of projects financed under PHARE are above 2 million €, given the particular nature of the support needs and implementation challenges in the nuclear safety field, projects are generally of smaller size.

5.1.3. 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.

(3) For the country specific component, under DIS, a complete tender dossier must be submitted to the Delegation for approval well ahead of the deadline for contracting and preferably by no later than 6 months after the signature of the FM. In case of non-compliance, the Beneficiary Country will inform the Joint Monitoring Committee (JMC) which may recommend reallocation of funds in accordance with Art. 5 of the Memorandum of Understanding (MoU) on the National Fund.

5.1.4. Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive\(^7\) are fully applicable for all investment projects under Phare. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-

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\(^7\) DIR 85/337/EEC; OJ L 175/40; 5.7.1985, as amended
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\textsuperscript{8}.

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\textsuperscript{9}.

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.

5.2. Financial Management for the country-specific component

5.2.1. Principles and Responsibilities

The National Fund in the Ministry of Finance headed by the NAO, will supervise the financial management of the programme, and will be responsible for reporting to the European Commission. The NAO shall have the overall responsibility for financial management of the PHARE funds, and the full accountability for the PHARE 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 each of the countries concerned Bulgaria, Croatia and Romania.

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. Interest will be reinvested in the programme.

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.

5.2.2. Payments to the National Fund

A first payment\textsuperscript{10} of up to 20% of the funds to be managed locally\textsuperscript{11}, 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

\textsuperscript{8} in Annex EIA to the corresponding investment project fiche.
\textsuperscript{9} in Annex Nature Conservation to the corresponding investment project fiche
\textsuperscript{10} representing pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation
\textsuperscript{11} excluding the amount foreseen for Community Programmes
and the IA/CFCU and the manner in which the payment function between them will be carried out.

Two further payments\(^{12}\) of up to 30% of the funds to be managed locally\(^{13}\) will be made. The second payment will be triggered when 5% of the total budget in force\(^{14}\) has been disbursed by the IAs and the CFCU. The third payment may be requested when 35% of the total budget in force\(^{15}\) has been disbursed.

A final fourth payment will be made when 70% of the total budget in force\(^{16}\) 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.

\section{5.2.3. 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.

\section{5.2.4. 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.

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\(^{12}\) representing interim payments or the renewal of pre-financing as defined in Art. 105 (1) of the Implementing Rules to the Financial Regulation

\(^{13}\) excluding the amount for Community Programmes

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

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

\(^{16}\) excluding the amount for Community Programmes
5.2.5. Closure of Expenditure and Clearance of Accounts

No later than sixteen months after the end of execution of contracts, the NF will submit a final declaration of expenditure covering both Phare 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.

6. MONITORING AND EVALUATION

Country-specific component

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 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. 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 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.

**Multicountry component**

The Commission will monitor the implementation of the Programme on the basis of reports from the selected contractors and independent assessments. As provided for in the Implementing Rules of the above-mentioned Financial Regulation, the Commission Services shall ensure that this programme will be subject to interim and/or ex-post evaluations.

7. **AUDIT, FINANCIAL CONTROL, ANTI-FRAUD MEASURES, PREVENTIVE AND CORRECTIVE ACTIONS**

7.1. **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\(^{17}\).

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\(^{18}\), the accounts and operations of the National Fund and, where applicable, the CFCU and all relevant Implementing Agencies may be checked at the Commission’s discretion by the Commission itself or by an outside auditor contracted by the Commission.

7.2. **Obligations of the Beneficiary Country for the country-specific component**

7.2.1. **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 fulfil


\(^{18}\) as referred to in the General Conditions relating to the Financing Memorandum” attached to the Framework Agreement
the requirements set out in Art. 164 of the Financial Regulation, and 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.\(^19\)

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...

7.2.2. Preventive Measures

The Beneficiary Country shall take any appropriate measure to prevent and counter active and passive corruption\(^20\) practises at any stage of the procurement procedure or grant award procedure, as well as during the implementation of corresponding contracts.

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.

7.2.3. 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.\(^21\)

In particular, all suspected or actual cases of fraud\(^22\) and irregularity\(^23\) as well as all measures related thereto taken by the national authority must be reported to the Commission services

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\(^{20}\) 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.


\(^{22}\) 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.

\(^{23}\) 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
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.

7.3. Recovery of Funds in Case of Irregularity or Fraud for the country-specific component

Any proven irregularity\(^{24}\) or fraud\(^{25}\) 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

(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.

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\(^{24}\) see definition above

\(^{25}\) see definition above
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.

8. VISIBILITY AND PUBLICITY

For the country-specific component, 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.

For the multi-country component, in implementing the Programme, the Commission shall provide for the maximum visibility of EU actions in the beneficiary countries. In line with this, the Commission shall consistently apply the note “Information and publicity for the Phare Programmes of the European Communities.”

9. SPECIAL CONDITIONS FOR THE COUNTRY-SPECIFIC COMPONENT

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

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

1. Objective and scope

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

2. General principles

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

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

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


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 general public, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

(ii) In the case of productive investments, measures to develop local potential and all other measures receiving financial assistance from Phare, Ispa or Sapard:

- measures to make potential beneficiaries and the general public aware of Phare, Ispa or Sapard assistance, in accordance with the provisions cited at paragraph 3(b)(i) above.

- measures targeting applicants for public aids part-financed by Phare, ISPA or SAPARD in the form of an indication on the forms to be filled out by such applications, that part of the aid comes from the EU, and specifically, the Phare, ISPA or SAPARD Programmes in accordance with the provisions outlined above.

4. Visibility of EU assistance in business circles and among potential beneficiaries and the general public

4.1 Business circles

Business circles must be involved as closely as possible with the assistance, which concerns them most directly.

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to potential beneficiaries, particularly SMEs. These should include an indication of the administrative procedures to be followed.
4.2 Other potential beneficiaries

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to all persons who benefit or could benefit from measures concerning training, employment or the development of human resources. To this end, they shall secure the co-operation of vocational training bodies involved in employment, business and groups of business, training centres and non-governmental organisations.

Forms

Forms issued by national, regional or local authorities concerning the announcement of, application for and grant of assistance intended for final beneficiaries or any other person eligible for such assistance shall indicate that the EU, and specifically the Phare, Ispa or Sapard Programmes, is providing financial support. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the Programme in question. If such documents bear the national or regional emblem, they shall also bear the EU logo of the same size.

4.3 The general public

The media

The competent authorities shall inform the media in the most appropriate manner about actions co-financed by the EU, and Phare, ISPA or SAPARD in particular. Such participation shall be fairly reflected in this information.

To this end, the launch of operations (once they have been adopted by the Commission) and important phases in their implementation shall be the subject of information measures, particularly in respect of regional media (press, radio and television). Appropriate collaboration must be ensured with the EC Delegation in the applicant country.

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

Information events

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

Information material

Publications (such as brochures and pamphlets) about programmes or similar measures financed or co-financed by Phare, Ispa or Sapard should, on the title page, contain a clear indication of the EU participation as well as the EU logo where the national or regional emblem is used.
Where such publications include a preface, it should be signed by both the person responsible in the applicant country and, for the Commission, the Delegate of the Commission to ensure that EU participation is made clear.

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

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

5. Special arrangements concerning billboards, commemorative plaques and posters

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

Billboards

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

Billboards shall be removed not earlier than six months after completion of the work and replaced, wherever possible, by a commemorative plaque in accordance with the specifications outlined in the technical manual referred to above.

Commemorative plaques

Permanent commemorative plaques should be placed at sites accessible to the general public (congress centres, airports, stations, etc.). In addition to the EU logo, such plaques must mention the EU part financing together with a mention of the relevant Programme (Phare, Ispa or Sapard).

Where a national, regional or local authority or another final beneficiary decides to erect a billboard, place a commemorative plaque, display a poster or take any other step to provide information about projects with a cost of less than EUR 1 million, the EU participation must also be indicated.

6. Final provisions

The national, regional or local authorities concerned may, in any event, carry out additional measures if they deem this appropriate. They shall consult the EC Delegation and inform it of the initiatives they take so that the Delegation may participate appropriately in their realisation.
In order to facilitate the implementation of these provisions, the Commission, through its Delegations on the spot, shall provide technical assistance in the form of guidance on design requirements, where necessary. A manual will be prepared in the relevant national language, which will contain detailed design guidelines in electronic form and this will be available upon request.