FINANCING MEMORANDUM

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

The Government of the Republic of Hungary, hereinafter referred to as "THE RECIPIENT" on the other part,

HAVE AGREED AS FOLLOWS:

The measure referred to in Article 1 below shall be executed and financed out of the budget resources of THE COMMUNITY in accordance with the provisions set out in this Memorandum. The technical, legal, and administrative framework within which the measure referred to in Article 1 below shall be implemented is set out in the General Conditions annexed to the Framework Agreement of 3 September 1990 between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this Memorandum and the Special Provisions annexed hereto.

ARTICLE 1 - NATURE AND SUBJECT

As part of its aid programme, THE COMMUNITY shall contribute, by way of grant, towards the financing of the following MEASURE:

Programme number: HU 9904 to 9912
Title: 1999 Hungary National Programme
Duration: Until 30 September 2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of € 91 Million hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 30.09.2001 subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is 30.09.2002 with the exception of the HU 9908.01 project where the deadline for disbursement is 31.12.2003. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.
ARTICLE 4 - ADDRESSES

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

for the COMMUNITY:

Delegation of the European Commission to Hungary,

Berc. U. 23, H-1016 Budapest

Telegraphic address: (36-1) 209 9700
Telex: 
Fax: (36-1) 466 42 21

for THE RECIPIENT:

Dr. Imre Boros, Minister without Portfolio,
Office of the Prime Minister,
Poszsony ut, 56
1133 Budapest

ARTICLE 5 - NUMBER OF ORIGINALS

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

ARTICLE 6 - ENTRY INTO FORCE

This Memorandum shall enter into force on the date on which it has been signed by both parties. No expenditure incurred before this date is eligible for the EC GRANT.

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

Done at Budapest Date 22. 12. 99

Done at Date 22. 12. 99

for THE RECIPIENT for THE COMMUNITY

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

SPECIAL PROVISIONS

In view of the provisions of Article 4 of the Accession Partnership Regulation (EC 622/98), overall agreement on the 1999 Phare programme will depend on the Government's commitment as described in the paragraphs "conditionalities" following the description of each project.

Objective 1. Political Criteria

**HU99.04.01, Education of Disadvantaged Youth with particular Emphasis on the Roma Minority**

Improving the situation of the Roma minority in Hungary and was identified as a priority area for action in the Commission Opinion, the AP and the NPAA, the 1998 Commission Progress Report. The 1999 Phare Programme is providing assistance to a programme proposed by the Ministry of Education in Co-operation with the Ministry of Social and Family Affairs. As the Roma issue in Hungary is considered as much a social question as it is an ethnic one, the approach chosen is of a wider social nature, aiming at the social integration of disadvantaged youth, focused on Roma population. It is supported by the representatives of the Roma Minority in Hungary. Specific objectives are raising the standards of primary education, prevention of social exclusion, and promoting social integration.

- **Preventive measures to reduce primary school drop-out** rate among socially disadvantaged youth, especially among the Roma. Actions foreseen include the creation of regional co-operation structures, special service packages for drop-out prevention at primary and secondary education levels, the development of pilot education packages, training programmes for Roma women to become kindergarten nannies, improving the training of teachers at all levels to enhance skills related to handling ethnic and social problems.

- **Focus on the secondary education**, through developing special remedial education programmes for disadvantaged youth, and Roma in particular, facilitating their access to vocational qualification, and the labour market.

- **Support for talented young Roma** to increase their numbers in higher education thereby contributing to their social promotion. Envisaged are special support schemes for Roma students, the establishment of a special secondary schools and dormitory network on the basis of existing institutions, support to the system of 'invisible colleges' for outstanding Roma students in post-graduate at young Roma preparing for higher education.

**Conditionalities for project HU99.04.01 :**

- Implementation of national measures and decisions taken by the Hungarian Government to improve the situation of the Roma and to fight against social exclusion and segregation.

- The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.

Objective 2. Reinforcement of Institutional and Administrative Capacities

**HU99.05.01, Public Finance Development**

Building on the results of previous Phare programmes, the two main components of the proposed project are targeted towards a continued harmonisation with the financial acquis and the strengthening of the Hungarian Tax Administration, respectively. Actions proposed include two separate twinning projects.

The first component :
the regulation and supervision of financial services (banking, capital market, insurance) through the strengthening of the supervisory authorities.

the further harmonisation of accounting rules, with special regard to certain provisions of the 4th and 7th Accounting Directives on Annual Accounts and Consolidated Annual Accounts, as well as the preparation of specialised legislation related to the accounting in the state administration, financial institutions and insurance companies, electric power and gas providers and transport enterprises.

the EU-conformity and transparency of government finances: improvement of the system of data collection, public-finance statistics, multi-annual forecasting, and the achievement of international statistical comparison (GFS-compatible statistics). Further support is planned to strengthen the monitoring of State Aids by the Ministry of Finance and the State Treasury.

The second component is designed to achieve an EU compatible tax administration by strengthening responsible structures within the Ministry of Finance and the Tax and Financial Control Authority (APEH):

- establishment of a Central Liaison Office in conformity with Council Regulation 218/92/EEC,
- harmonisation with directives related to indirect taxation (different VAT and excise duty rules), direct taxation (capital income, company taxation, rules related to parent and subsidiary companies, mergers and separation of enterprises), and tax administration.
- development of the control and audit methods of APEH.

Conditionalities for project HU99.05.01:

- Adoption of a framework government regulation to empower the State Aid monitoring authority.
- Starting the establishment of regional aid maps for monitoring of state aids.
- The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
- All equipment to be financed by Phare for this project will be identified in close co-operation with experts of EU Member States (in the framework of the twinning arrangements) and will be subject to standard Phare tendering procedures.

HU99.05.02. Transit facilitation - Customs Modernisation

The Accession Partnership and the NPAA all mention the modernisation of border management and customs controls, including the modernisation of border facilities and control equipment, as priority action for the years 1999 and 2000. During the past years the Hungarian Customs and Finance Guard (HCFG) has taken important steps towards meeting the requirements of EU membership. In 1998 a new Integration Office was created, and an Integration Strategy for the Customs Guard completed. The modernisation of border crossing points (BCPs) was continued at all relevant border sections. Under the 1998 National Phare programme the HCFG was awarded investment co-financing for the modernisation of the two principal BCPs along the borders to Croatia and Yugoslavia. Still, Hungary presently has only one border crossing station fully reconstructed to meet Schengen norms. All major BCPs along the Ukrainian and Romanian border sections are undergoing reconstruction works. Improving data-exchange and communications infrastructure, upgrading laboratory facilities and the procurement of control equipment are other important development priorities.

Therefore, the Customs Modernisation programme 1999 includes three major components:

- Modernisation of major Border Crossing Points and connecting road infrastructure with the aim of facilitating legitimate cross-border trade and passenger traffic, speeding up customs procedures and enabling the HCFG to cope with increasing traffic volumes. On future external borders reconstructed BCPs shall be designed to meet Schengen requirements.
- Modernisation of laboratory facilities to enable the HCFG to efficiently combat commercial fraud and organised crime related to narcotic drugs, psychotropic substances, hazardous products and other goods subject to international controls.
- Purchasing specialised equipment (stationary and portable) for the detection of hazardous materials.

Conditionalities for project HU99.05.02:
• The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
• Further strengthening of border crossing points and simplification of border procedures and development of ‘a posteriori’ controls.
• The border-crossing components of the project require co-ordination with the customs administrations and other authorities in neighbour states. The relevant intergovernmental agreements must be concluded before invitations to tender can be published.

Objective 3. Economic reform

HU99.06.01. Small and Medium Sized Enterprise Development

The Commission Opinion and the Accession Partnership both stress the need to promote through special support schemes the development of a strong and growing sector of micro, small and medium-scale enterprises (SMEs). Earlier Phare SME programmes are seen as a success by all involved parties and are therefore proposed to be extended in 1999. The proposed programme has four main elements:

• continued provision of micro-scale funding for enterprises (enhanced Micro-Credit Scheme)
• provision of technical assistance (TA) to SMEs,
• development of workspace units (incubators)
• and the development of a centre of excellence of SME promotion.

All above activities shall be based on the existing network of the Hungarian Foundation for Enterprise Promotion (HFEP) and its Local Enterprise Agencies (with over 150 branches throughout Hungary).

Conditionalities for project HU99.06.01:

• The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
• The strengthening of the management capacity and of the quality of the financial reporting system of the Hungarian Foundation for Enterprise Promotion must be ensured.
• The ownership of the micro credit fund shall be clarified by the Hungarian Government.
• The Micro-credit manual shall be revised and updated.
• The strategic study shall be completed and approved by the Hungarian Government, the HFEP and the representatives of the EC Delegation in Budapest.
• Local co-funding shall be provided for workspace unit development.
• The co-funding by the Government

Objective 4. Justice and Home Affairs

HU99.07.01. Further Strengthening of Border Management

According to the 1999 Working Document, despite positive development, the Hungarian Border Guards are still heavily under-equipped and face a growing task in fighting against illegal migration especially at Hungary’s Eastern and Southern borders. Based on the Commission Opinion and the Accession Partnership, concrete needs have been identified by a detailed assessment study financed under the 1997 Phare Programme. This project constitutes the follow-up and conclusion of earlier Phare activities in the field of Border Management (1997 and 1998 Phare programmes provided more than 4 M€ for Institution Building), focusing mainly on investment in:

• Equipment for the Hungarian Border Guard, with special emphasis on the control of the green borders, not covered by earlier programmes.
• the fight against organised crime, including infrastructure development related to regional drug laboratories, a national registry of firearms, an integrated anti-terrorist and mobile crisis management centre, the handling of illegal migration, the improvement of the police detention system, traffic monitoring equipment.
• Refugee and Migration affairs, through the development of related local institutions and Reception Centres, on-line communications, automated fingerprinting for the registration of refugees, including the initial processing of asylum applications at border posts, as well as the creation of mobile transport units and medical quarantine facilities.
• a Unified Visa Policy and regulations, with special regard to the setting up of a centralised unit for issuing and uniform handling of visa for third country nationals.

The reform of existing immigration procedures shall be supported by a twinning programme, accompanied by special training seminars with the participation of EU Member State experts.

Conditionalities for project HU99.07.01:

• Adoption of a programme with a view to align Hungarian visa policy with the EC requirements by autumn 1999 (covering the Commonwealth of Independent States).
• Further elaboration of a strategy for the modernisation of border controls by September 1999.
• Adoption of the new law against Organised Crime.
• The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
• All equipment to be financed by Phare in the field of border management will have to be identified in close co-operation with experts of EU Member States (in particular in the framework of the twinning arrangements) and will be subject to standard Phare tendering procedures.

Objective 5. Transport

HU99.08.01. Reconstruction of the Danube Bridge at Esztergom-Párkány (Štúrovo)

The Esztergom - Štúrovo Bridge is located on the border of Hungary and Slovakia. The project is a joint initiative of the Republic of Hungary and the Slovak Republic under the auspices of the Paris Conference on the Pact on Stability in Europe. The restoration of the bridge - destroyed back in 1944 and the only one not having been reconstructed after WWII - will help the population of both sides resume contacts and relations. But it would also provide a significant contribution to the economic development of the region, facilitate the establishment of international coach lines and also attract some limited freight traffic. Currently connections between the two towns of Esztergom and Štúrovo are maintained from spring to autumn only by a daytime ferry service for cars and pedestrians, while in the winter the nearest Danube crossing is a bridge at Komárom, over 100 kms away. Construction works are expected to start before the end of the year.

Conditionalities for project HU99.08.01:

• The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
• An agreement between the Hungarian and Slovak Governments, on both all details of the constructing and operating of the Bridge and on the setting-up of a joint implementation unit, will be signed prior to the signature of the Financing Memorandum (FM). The project will be implemented by this joint Slovak-Hungarian implementation unit that will be set up before the signature of the FM. This joint unit (to be paid from the beneficiaries' own costs) will be responsible for the technical aspects of the project and the tendering process.
• The award of the contracts will follow international tendering (FIDIC), ensuring competition and according to Phare procedures. The project shall be implemented through one tendering process.

HU99.08.02. Railway Rehabilitation II. (Budapest Ferencváros - Soroksár railtrack)

The establishment of combined transport modes and logistical centres has a key importance for the efficient and environmentally friendly handling of increased freight traffic volumes in the pan-European context. A government strategy for the establishment of a country-wide network of logistical centres has been completed in 1993. This project is an integral part of the railways rehabilitation programme launched in 1997 by MÁV (Hungarian State Railways Corporation), and co-financed by EIB, EBRD and the Phare Programme. This Phare project shall support the reconstruction of a vital connecting railtrack between Budapest-Ferencváros and Soroksár Station, towards the Budapest Intermodal Logistical Centre (BILK). The
proposed intervention is part of the TINA Network (Corridor X). The establishment of the BILK has attracted around 31 Meuro of Government investment (planning, land acquisition, connecting roads, utilities and the terminal itself), and is supported by Phare programme HU9608. Substructure and track along the Budapest Ferencváros – Soroksár railway line will be reconstructed with alignment corrections as necessary. At Soroksár station, extra roadbeds will be constructed for the connection to the planned BILK. High platforms and other passenger service facilities will be constructed. In addition to the rehabilitation of substructures and tracks, the electrical overhead line and the signalling system will be upgraded. Other project components include buildings at Pesterzsébet stop where also the lighting and telecommunication systems will be modernised. The upgrading of the signalling and telecommunication systems will be in accordance with the ERTMS standard – European Rail Transport Management System – and the GSM-R norm in particular.

Conditionalities for project HU99.08.02:

The release of the Phare funds is subject to the following conditions:

a) The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.

b) The effectiveness of the co-financing (loans) by both the EIB and the EBRD of the global restructuring and investment programme for the MÁV is a pre-requisite condition to the effectiveness of the phare assistance (grants) in 1997 and in 1999. A formal confirmation by EIB and EBRD on the effectiveness of their respective loans for the railway sector will be provided prior to the signature of the Financing Memorandum (FM).

c) The Hungarian Government will ensure that all necessary technical documents relating to the project HU9905.02 will be sent to the Commission's services (EC Delegation in Budapest) by the date of signature of the Financing Memorandum at the latest.

d) The award of the contract(s) will follow international tendering (FIDIC), ensuring competition and according to Phare procedures.

Objective 6. Agriculture

HU99.09.01. Development of the Plant Protection Service

The development of the Hungarian Phytosanitary Service under the 1999 programme represents a continuation of earlier Phare programmes. A strategic plan for the Phytosanitary Service was financed and completed under the 1995 programme. Laboratory equipment for Border Inspection Posts (BIPs) was first purchased under the 1993 and 1995 programmes, and a similar project is starting under HU 9806-02. Training has been organised since 1997.

However, compliance with relevant EU-Directives still requires the

- further strengthening of phytosanitary BIPs by purchasing sampling and disinfection devices for facilities near external borders, establishing quarantine greenhouses at Hódmezovásárhely and Velence, purchasing advanced desktop computers for the phytosanitary information system
- improvement of the safety of crop production by enabling the Phytosanitary Service to perform on-site controls on production fields and markets, registering growers and exporters, issuing certificates and transmitting data collected to the central database, purchasing devices for plant protection and the forecasting of epidemics in order to decrease pesticide use and prevent the spread of harmful organisms.


Conditionalities for project HU99.09.01:

- Establishment of a strategy for the setting-up of a fully compatible Veterinary and phytosanitary control system based on aligned standards.
- The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
**HU99.09.02. Development of Land Registration**

The system of land and real estate registration - a key cornerstone for the operation of the Common Agricultural policy - is managed in Hungary by the Network of 20 County and 116 District Land Offices (CLOs and DLOs) of the Ministry of Agriculture and Regional Development (MARD). The efficient functioning of the network according to relevant EU standards requires the establishment of a complex, multi-purpose Data Exchange and Management Information System (the so-called META system) connecting 23 key agencies. The Ministry of Agriculture is in possession of an overall detailed strategy for the plan for this overall development, the last phase of which is the implementation of the META system. META, now to be co-financed under the 1999 Phare programme consists of three closely interrelated and interdependent sub-projects: a) technical assistance (expert support throughout the tendering and contract implementation phase, b) complete design and pilot testing of the software system required for the functioning of META, c) procurement of hardware for the 23 sites. Full design specifications and tender documentation for the project are available at the MARD.

Conditionalities for project HU99.09.02:

- The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.

**HU99.09.03. Agricultural Statistics**

Within the framework of the AP and the NPAA, taking into account the Statistical Requirements Compendium of Eurostat (July 1998) as well as the results of the screening process this programme supports more specifically the:

- conduct of an agricultural census, meeting EU requirements related to farm structure surveys, establishing a farm typology and farm register providing a basis for agricultural production surveys. (This census is essential for the functioning of the CAP, and must be completed no later than 2000. It is furthermore indirectly linked to other areas of statistical activity in need of further development in view of accession.);
- development of fruit tree, fruit production, vineyard and wine production sample surveys;
- development of EU conform milk and slaughter statistics,
- development of an agricultural monetary statistics system.

The direct beneficiary of the project is the Hungarian Central Statistical Office (HCSO). Envisaged support includes a twinning arrangement with statistical services of Member States, and - where possible - co-operation with EUROSTAT experts.

Conditionalities for project HU99.09.03:

- The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
- Strong co-ordination between the Hungarian Statistical Office and the Ministry of Agriculture.

**Objective 7. Social Affairs**

**HU99.10.01. Public Health Laboratories**

With regard to the alignment of labour and occupational health and safety legislation the Accession Partnership is stressing in particular the early adoption of the framework directive on health and safety at work, and raising public health standards to EU-conform levels. In response to these two goals the present subprogramme shall contribute to:

- the completion of the infrastructure of the Hungarian public health authorities responsible for the identification and monitoring of relevant chemical, physical and micro-biological agents - including infrastructural development, control, sampling and analytical equipment and extensive staff training in professional and language skills.
• institutional development and capacity building in the field of chemical safety, involving the strengthening of the toxicological information and control systems, the creation of a widely accessible database on risk assessment, communication and data exchange facilities, infrastructure at central and regional institutes for risk assessments in the fields of environmental and occupational health, food hygiene, and radiological safety.

Conditionalities for project HU99.10.01:

• The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
• Adoption and enforcement of legislation covering the social acquis: harmonisation with Directive 89/686 on the approximation of laws of Member States relating to personal protective equipment. In respect of this Directive, the provisions on conformity assessment and certification are still to be harmonised. Further harmonisation concerning protection of workers (Directives 90/679, 83/477, 82/605, 78/610), protection of employees in the event of insolvency of their employer (a central/national insolvency fund has to be aligned with the acquis) and part-time workers.
• The responsibilities of the National Labour Inspectorate should be clarified as regards adoption, enforcement and implementation of the acquis in the social sector.

Objective 8. Environment

HU99.11.01. Implementation of the Landfill Directive

Hungary does not possess reliable information on its solid waste deposits. There are approximately 2,600 operational landfills in the country. Most of them are operating without adequate isolation and monitoring systems, and their effects on the environment are unknown. There is insufficient data about two thirds of landfills. Data available are not compatible with EU requirements. Furthermore, there is a substantial number of illegal dumps in Hungary some of which contain hazardous wastes. Aiming at the transposition and effective implementation of the Acquis in the area of solid waste management the present sub-programme comprises five sub-components:

• specifying the methodology for the classification of existing landfills according to hydrological features, soil structure, mechanical aspects and other relevant characteristics.
• developing a complete computerised inventory of landfills, including data on the exact location and size of landfills, volume and type of waste deposited, risk assessment of possible contamination.
• preparation of detailed studies to select landfill sites able to fulfil EU requirements
• Preparation of proposals for the improvement of landfill capacity
• Assessment of the possibility of rehabilitating closed landfills and improving operational ones, bringing them in line with valid EU regulations.

Conditionalities for project HU99.11.01:

• The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
• Further progress in the transposition of the environmental acquis and in particular of the Integrated Pollution Prevention Control, Seveso wastewater treatment, waste framework, air pollution and radiation protection Directives.

HU99.11.02. Disaster Prevention

This project will contribute to the effective implementation of the Seveso II Directive (96/082/EEC) by developing the disaster prevention and technical rescue capacities for the National Headquarters of the Hungarian Fire Service (NHHFS) on five priority bases of the Fire Service (Budapest, Győr, Kiskunfélegyháza, Miskolc and Szolnok).

Phare support will co-finance the implementation of an extensive modernisation programme that is funded by the Hungarian national budget and by mandatory contributions of the Hungarian insurance industry. In the framework of this plan the NHHFS shall turn nine municipal fire stations (Budapest, Debrecen, Győr, Kiskunfélegyháza, Miskolc, Pécs, Szolnok, Veszprém, and Zalaegerszeg) into technical rescue bases meeting
highest international standards, with special regard to the Seveso II. directive. The programme also includes training for operational staff.

This project is a continuation of previous Phare projects. All required feasibility studies and risk analyses for interventions have been prepared. About 7% of the 1999 allocation shall be used for a comprehensive training programme.

Conditionalities for project HU99.11.02:

- The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.
- Further progress in the transposition of the environmental acquis and in particular of the Integrated Pollution Prevention Control, Seveso wastewater treatment, waste framework, air pollution and radiation protection Directives.

**Objective 9. Participation in Community Programmes**

**HU99.12.01. Support for End Users of Community Programmes**

In line with the Europe Agreement and European Council conclusions the familiarisation of candidate countries with Community practices and methods is to be facilitated through participation in Community Programmes. This goal is supported by the Phare programme by providing:

- a near-50% co-financing of participation costs (entry tickets)
- additional support to the “end users” actually benefiting from these programmes.

In 1999 Hungary is interested to take part in the Socrates, Leonardo, Youth for Europe, Media II, Save II, Raphael, Health Promotion, Fight against Cancer, Aids Prevention, Drugs Dependence, Equal Opportunities, and SME Programmes, as well as in the 5th Framework Programme for Research and Development. Entry-ticket co-financing on a gradually decreasing basis as well as participation cost in the TEMPUS programme are provided by Phare under separate financing memoranda.

Conditionalities for project HU99.12.01:

- The Hungarian Government will ensure sufficient and adequate staffing in the relevant technically responsible institutions for the implementation and management of the Phare support.

**Budget in Meuro**

<table>
<thead>
<tr>
<th>Sectors</th>
<th>Description of projects by Objectives</th>
<th>PHARE Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>IN</td>
</tr>
<tr>
<td>HU9904</td>
<td>Objective 1 - Political Criteria</td>
<td>2,335</td>
</tr>
<tr>
<td>HU9904.01</td>
<td>Education of Disadvantaged Youth with Particular emphasis on the Roma</td>
<td></td>
</tr>
<tr>
<td>HU9905</td>
<td>Objective 2 – Reinforcement of institutional and administrative capacities</td>
<td>10,45</td>
</tr>
<tr>
<td>HU9905.01</td>
<td>Public Finance (supervision of financial services, accounting, financial statistics, state aid monitoring, taxation)</td>
<td></td>
</tr>
<tr>
<td>HU9905.02</td>
<td>Transit facilitation &amp; Customs modernisation</td>
<td></td>
</tr>
<tr>
<td>HU9906</td>
<td>Objective 3 - Economic reform</td>
<td>4</td>
</tr>
<tr>
<td>HU9906.01</td>
<td>Promotion and Development of SMEs</td>
<td></td>
</tr>
<tr>
<td>HU9907</td>
<td>Objective 4 - Justice &amp; Home Affairs</td>
<td>12,92</td>
</tr>
<tr>
<td>HU9907.01</td>
<td>Strengthening of Border Management, fight against organised crime,</td>
<td></td>
</tr>
<tr>
<td>HU9908</td>
<td>Objective 5 – Transport</td>
<td>20</td>
</tr>
<tr>
<td>HU9908.01</td>
<td>Reconstruction of the Esztergom - Štúrovo Bridge (Hungary/Slovakia)</td>
<td></td>
</tr>
<tr>
<td>HU9908.02</td>
<td>Railway rehabilitation of the section Budapest Ferencváros – Soroksár</td>
<td></td>
</tr>
<tr>
<td>HU9909</td>
<td>Objective 6 – Agriculture</td>
<td>7,1</td>
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<tr>
<td>HU9909.01</td>
<td>Development of the Plant Protection Service;</td>
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<tr>
<td>HU9909.02</td>
<td>Development of Land Registration;</td>
<td></td>
</tr>
<tr>
<td>HU9909.03</td>
<td>Agricultural Statistics</td>
<td></td>
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<tr>
<td>HU9910</td>
<td>Objective 7 – Employment and Social Affairs</td>
<td>6,717</td>
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</tbody>
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. IMPLEMENTATION ARRANGEMENTS

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

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

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Republic of Hungary on 17th December 1998. Funds will be transferred following requests from the NAO. A payment of up to 20% of the funds to be managed locally will be transferred to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agencies (IAs)/Central Financing and Contracting Unit (CFCU). The provisions foreseen in articles 2 and 13 of the MoU on the NF must also be met. Furthermore, the NAO must submit to the Commission the designation of the PAOs and a description of the system put in place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function will be carried out.

Four Replenishments will be made of up to 20% of the funds to be managed locally or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 10% of the budget has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the IAs exceeds 10% of the total budget in force of the commitment. Exceptionally the NAO may request an advance payment of more than 20% in accordance with the procedures laid down in the aforesaid Memorandum of Understanding.

IAs will be responsible for sub-programmes as follows:

<table>
<thead>
<tr>
<th>Subprog. No.</th>
<th>Title</th>
<th>Implementing Agency</th>
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<tbody>
<tr>
<td>HU 9904-01</td>
<td>Education of Disadvantaged Youth (Roma)</td>
<td>CFCU</td>
</tr>
<tr>
<td>HU 9905-01</td>
<td>Public Finance Development</td>
<td>CFCU</td>
</tr>
<tr>
<td>HU 9905-02</td>
<td>Transit facilitation / Customs Modernisation</td>
<td>Customs and Finance Guard</td>
</tr>
<tr>
<td>HU 9906-01</td>
<td>SME development</td>
<td>Foundation for Enterprise Promotion</td>
</tr>
<tr>
<td>HU 9907-01</td>
<td>Justice &amp; Home Affairs</td>
<td>CFCU</td>
</tr>
<tr>
<td>HU 9908-01</td>
<td>Esztergom-Štúrovo Bridge</td>
<td>Ministry of Transport *</td>
</tr>
<tr>
<td>HU 9908-02</td>
<td>Railway rehabilitation Ferencváros - Soroksár</td>
<td>Ministry of Transport</td>
</tr>
<tr>
<td>HU 9909-01</td>
<td>Development of the Plant Protection Service</td>
<td>Ministry of Agriculture</td>
</tr>
<tr>
<td>HU 9909-02</td>
<td>Development of Land Registration</td>
<td>Ministry of Agriculture</td>
</tr>
<tr>
<td>HU 9909-03</td>
<td>Agricultural Statistics</td>
<td>CFCU</td>
</tr>
<tr>
<td>HU 9910-01</td>
<td>Development of Public Health Laboratories</td>
<td>CFCU</td>
</tr>
<tr>
<td>HU 9911-01</td>
<td>Investigation of Municipal Sanitary Landfills</td>
<td>Ministry of Environment</td>
</tr>
<tr>
<td>HU 9911-02</td>
<td>Disaster prevention</td>
<td>CFCU</td>
</tr>
<tr>
<td>HU 9912-01</td>
<td>Community Programs - End User Support</td>
<td>CFCU</td>
</tr>
</tbody>
</table>

* A joint project co-ordination unit (Slovak and Hungarian) must also be set-up
The National Fund will transfer funds to IAs, including the Central Financing and Contracting Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NF and the IAs/CFCU where applicable. Each individual FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the CFCU/IA there will be no transfer of funds from the NF to the CFCU/IA. The CFCU and the Implementing Agencies must be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all the operations carried out by the relevant CFCU/IA.

A separate bank account denominated in € (Euro) will be opened and managed by the NF in a separate accounting system in the Hungarian State Treasury. In principle, all bank accounts will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme. The same procedures will apply to any funds transferred to an IA or the CFCU.

The NAO and the PAOs will ensure that all contracts are prepared in accordance with the procedures set out in the DIS Manual. Non-standard procedures are foreseen for the SME programme HU 9903-01, where funding shall be provided on a contractual basis for the Local Enterprise Agencies (LEAs). The micro credit scheme will be delivered in accordance with a revised and updated manual, LEA projects will be delivered against a revised LEA operating manual. Small contracts are possible both for all components.

All contracts will be greater than EUR 2 million, except those in the following areas:

- **HU9904-01 Education of Disadvantaged Youth**: Having an institution-building-type character, the programme is built up of smaller components. Part of the funds is planned to be used as a grant scheme. Care will be taken to group procurements into the smallest possible number of tenders.

- **HU9905-01 Public Finance**: Institution Building Programme with very specific, but smaller components for well-targeted assistance.

- **HU9905-02 Transit facilitation / Customs Modernisation**: The components for hazardous materials and the laboratory are only awarded 0.5 MEUR each. They can not be tendered together with the rest of the programme (works tenders).

- **HU9907-01 Justice & Home Affairs**: the equipment may be procured through different tenders if justified technically. Some of these tenders may be smaller than 2 MEUR. Care will be taken to group procurements into the smallest possible number of tenders. Refugee migration and visa policy allocations are smaller than 2 MEUR and cannot be merged into other tenders anyway.

- **HU9909-01 Plant Protection**: One of two tenders envisaged is below 2 MEUR.

- **HU9909-02 Development of Land Registration**: A Long Term Technical Assistance contract is planned to be 0.2 MEUR only, according to needs.

- **HU9910-01 Public Health Laboratories**: 3 tenders of fundamentally different nature are to be implemented with no possibility of grouping procurements together: one for 6.28 Meuro and the two others for less than 2 Meuro.

- **HU9911-02 Disaster Prevention**: one small contract for language training is envisaged (0.26 M€). For the equipment (3,736 Meuro), care will be taken to group procurements into the smallest possible number of tenders.

- **HU9912-01 Community Programmes End-user Support**: Small contracts are the rule due to the nature of Community Programmes. However, no tendering is necessary.

Contracts related to Technical Assistance or twinning may be below 2 MEUR in any area. As far as possible, joint tendering of similar procurement needs from different programmes shall be attempted.

**All contracts must be concluded by 30th September 2001. All disbursements must be made by 30th September 2002. However, in the case of the project HU9908.01, disbursements must be made by 31 December 2003.**

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

**MONITORING AND ASSESSMENT**

A Joint Monitoring Committee (JMC) will be established. It will include the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds.

The JMC will be assisted by Monitoring Sub-Committees (MSC) and will include the NAC, the PAO of each IA (and of the CFCU where applicable) and the Commission Services. The MSC will review in detail the progress of each programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultant (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring these are effected. The MSC will report to the JMC, to which it will submit overall detailed reports on all Phare financed programmes.

**AUDIT AND EVALUATION**

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

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

**VISIBILITY/PUBLICITY**

The appropriate Programme Authorising Officer will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the programme. This will be done in close liaison with the Commission Delegation. Further details are at the Annex 'Visibility/Publicity'.

**SPECIAL CONDITIONS**

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

As a general conditionality to all projects included in this 1999 programme for Hungary, there is the necessity to proceed with the further alignment of the legislation on Public procurement legislation ensuring that the National Preference clause in case of co-financing of projects with EU is not used in any case.