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 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 September 3, 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: 2002/000-180-01 to 2002/000-180-06
Title: Phare National Programme for Hungary 2002 - Part I
Duration: Until 30/11/2004 except for Grant schemes, which will have to be contracted by 30 June 2004

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 37,693 MEUR hereinafter referred to as "THE EC GRANT".

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2 The Financing Memorandum structure is as follows: 1. the coverpages with the references to the country concerned, amount and authority to sign, 2. Annex A of the Framework Agreement; 3. Annex B of the Framework Agreement; Annex C -Special Conditions (the text of the adopted financing proposal starting from Description and Objectives onwards; and Annex D 'Visibility/Publicity.
ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 30/11/2004 except for Grant schemes, which will have to be contracted by 30 June 2004, subject to the provisions of his 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 30/11/2005. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.

ARTICLE 4 - ADDRESSES

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

for the COMMUNITY:

Mr. Jürgen Köppen
Head of Delegation of the European Commission to Hungary
Bérc u. 23
H 1016 Budapest

for THE RECIPIENT:

Dr. Imre Boros
Minister without Portfolio
Office of the Prime Minister
Pozsonyi út, 56
H 1133 Budapest

3 Consistency between the main text of the FP (1st page) and the FM (1st page as well as in the 'Implementation Arrangements' chapter) must be ensured. The deadline for contracting and the deadline for disbursements should correspond accordingly.
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 ..........................

Date ..........................

for THE RECIPIENT

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

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

Encl.

1. Framework Agreement (Annexes A & B)

2. Special Provisions (Annex C)

3. Visibility/Publicity (Annex D)
ANNEX C

Special Provisions

1. Objectives and Description

Phare Institution Building Programme 2002 focuses on six objectives. A description of the proposed projects is given below.

Objective 1 - AGRICULTURE AND FOOD SAFETY

2002/000-180-01-01 Completion of preparations for Common Market Organisations

The Ministry of Agriculture and Regional Development has prepared a strategy for the transformation of its agricultural market regime so that by the time of the accession it will be in full conformity with the CAP. This means that the management of the CMOs shall meet the requirements of the relevant EC legislation, particularly the regulations No 1258/1999/EC and No 1663/95/EC as amended. This system shall ensure that all the funds granted to beneficiaries are controlled in conformity with the regulation 1663/95/EC and all of the activities carried out are properly prescribed and documented.

The recently completed project has provided the descriptions (guidebooks) of procedures for the implementation of each of CAP measure giving an overview about the use of these guidebooks measures to the designated Hungarian administration. The next step is the definition and description of the individual tasks for each of the units and persons to be involved in the future management of the respective CMOs, followed by the actual introduction of the established administrative procedures.

The project aims at preparing for the introduction of the administrative procedures used and best practices in the Community to manage the common market organisations. These would gradually replace the ones used by the relevant Hungarian authorities at the implementation of the current national market regulation system.

2002/000-180-01-02 TSE Control

In order to assure consumers in and outside the country about the safety of Hungarian meat and products of animal origin, Hungary needs to verify its BSE status. The EU Scientific Advisory Commission placed Hungary in the third category (probable BSE cases) concerning BSE risk classification of the countries although no BSE cases have been found in Hungary yet. Hungary has to comply with EU conform examination methodology.

The project aims at facilitating the introduction of TSE screening in Hungary as prescribed in the Regulation 999/2001/EC.

Phare Assistance will support Hungary in this first, bi-annual, period of full application of the EU requirements by providing a flat contribution of around 15 € per test which is in line with the contribution provided by the Community Budget to the Member States. It is expected that after this first period Phare assistance will be phased out.
It is necessary to provide training because of the introduction of new control measures and processing methodologies. Training will be provided to the veterinarians executing the control on slaughterhouses as well as to slaughterhouse personnel.

**2002/000-180-01-03 Preparation for the management of Community funded measures in the areas of rural development, fisheries and aquaculture**

Government Decision 2160/2001 (VI. 27.) on the establishment of the institutional structure for the Structural Funds stipulates where the Managing Authorities of the Future Operational Programmes have to be located. In the case of the Managing Authority for the Agriculture and Rural Development Operational Programme, the decision indicates that it has to be established on the basis of the SAPARD Agency in the Ministry of Agriculture and Regional Development (MARD). Assistance to establish the Managing Authorities

The project aims at strengthening institutional structures in order to achieve, upon accession, sound and efficient management of EU Structural Funds in the Agricultural Sector. Institutional preparations for the programming and management of Structural Funds in the agricultural sector are to be completed. In particular the project will assist in:

- The preparations of the Operational Programme and the Programming Complement;
- The development of the capacity at the Unit identified as future managing authority for the Operational Programme for Agriculture and Rural Development.

This project is complementary to the 2001 project entitled "Completing preparations for management of EU structural and cohesion funds". Co-ordination among the two projects will be maintained.

**2002/000-180-01-04 Improvement of qualification and certification of feedstuff, seeds and propagation material**

Adaptation of the necessary legislation for EU conformity partly took place in 1996 in Law No CXXXI. of 1996 on „State registration of plant varieties, production and marketing of seeds and propagating materials” and its additional regulations. Last period of legislative harmonisation will have to be fully completed before 30 June 2002.

The project aims at the effective transposition of acquis in the field of certification and marketing of seeds, propagating materials and feeds. In particular it will focus on:

- developing an EU harmonised qualification system for varieties and certification of seeds, propagating material and feeds.
- developing an IT system ensuring fast sample movements and data transfer and processing.
- making the present qualification and certification system fit for meeting EU requirements.

In the variety-testing sector the project will support the introduction of variety testing methods accepted in the Member States in order to enter the varieties from the Hungarian National List in to the EU Common Catalogue. In the seed production sector the project will focus on
building capacity for screening GMO varieties and developing pre and post controls. In the feedstuff sector the project will assist in the purchasing of equipment necessary to take over the analytical methods accepted by the EU laws and directives.

**2002/000-180-01-05 Sheep and goats identification and registration system**

EEC Directive 92/102 describes the requirements for identifying and registering sheep and goats including a definition of the minimum requirements for indicating the animals’ origins. This surveillance network system shall be mandatory on all holdings in the territory of the Member State operating such a system. This will enable movement control to be exercised based on health status of herds and current residue/substance levels. The controls are critical for protecting animal and public health.

Due to the recent outbreak of foot-and-mouth disease, new EU legislation in this area is imminent. It may introduce the requirement of individual identification of sheep and goats with lifetime numbers. The disease in the sheep population could be potentially catastrophic for the Hungarian and indeed the EU economy.

Hungarian authorities decided to use individual identification because illegal animal movement through Hungary’s eastern border (which will be the future EU border) is a real threat to the country’s animal health status. Animal level identification is an important tool to discover illegal individuals. Further, blocking the spread of diseases can be effectively supported by individual movement information.

Through the project Hungary will achieve full compliance with Directive 92/102 EEC concerning the registration and identification of sheep and goats, and with evolving EU legislation in these fields. The project will assist in particular to establishment a fully functioning systems for:

- Sheep and goat holding and keeper registration linked to the national animal holding register and farm registration;
- Individual identification and registration of sheep and goats from birth to the end products (stable to table);
- Operational information and veterinary surveillance network system for sheep and goats set up.

**2002/000-180-01-06 Food Safety Agency**

The amendment of the Animal Health Act of the year 1995 was approved by the Government on the 6th of June 2001 and entered into force on the 6th of July 2001. The new act provides for the establishment of a food safety organization. On that basis the Minister of Agriculture and regional Development and the Minister of Health have signed an official agreement in September 2001 on the establishment of the National Food Safety Agency. The agreement clarifies that the
National Food Safety Agency is operating with national authority under the direction of the Minister of Agriculture and Regional Development.

The new Food Safety Agency will be a completely independent authority responsible for risk assessment and scientific advice. In addition it will co-ordinate and advise on activities (including control activities) of the food safety bodies. The precise structure of the agency is under elaboration by the different authorities and the inter-ministerial committee. The project will aim, through Institution Building Support, at assisting Hungary in the establishment of the Food Safety Agency and the full application of the acquis communautaire.

**Objective 2 SOCIAL POLICY AND EMPLOYMENT**

2002/000-180-02-01 *Human resources development in occupational safety and health*

The main purposes of this project are: to foster human resource development at safety inspection authorities in order to improve the effectiveness of local inspections, and to provide institution building support to optimise operation of the Hungarian focal point of the European Agency for Health and Safety at Work.

Through a module based training, the programme will contribute to human resource development of the health and safety at work inspectorates: National Labour Inspectorate (NLI), National Public Health and Medical Officers’ Service (NPHMOS) and National Mining Office (NMO). This is in line with the responsibilities falling under the framework directives on health and safety at work.

In addition, the project will support the National Labour Inspectorate, which has been appointed as Hungarian focal point of the European Agency for Safety and Health at Work, to find the most efficient way of work. Indeed, in the frame of the twinning programme, experts from a Member State(s) will provide professional and methodological support for strengthening its consolidated operation.

2002/000-180-02-02 *Development of the Hungarian Public Employment Service*

The need to modernise the Public Employment Service found its justification in the Joint Assessment Paper on Employment (JAP) recently signed between the Commission and the Hungarian Government. The development and modernisation of the Public Employment Service is a central objective of the JAP.

In particular, the Government is committed to strengthening its role in matching labour supply and demand and in ensuring equal access to high quality services throughout the country. Under the PES development process, there is also a commitment to strengthen the interface between its unemployment benefit systems and its role in brokering a more effective response to labour market requirements.

The project aims at strengthening the efficiency and effectiveness of PES in:

- by providing better services to all clients;
- by supporting the operation of the labour market;
- by helping regional development projects with detailed labour market information.
Institution Building support will be provided to help the service in meeting these tasks.

The project will also support the establishment of Computerised nation-wide information system covering all vacancies and job-seekers registered in local employment offices and meeting the requirements of individual case management, efficient handling of vacancies and EURES, and also of collecting statistical data and monitoring PES performance.

2002/000-180-02-03 Maintenance and development of epidemiological safety in communicable diseases

While the epidemiological situation of communicable diseases in Hungary is favourable at the moment, its risk status has dramatically increased with the ongoing socio-economic transformation in Central and Eastern Europe, the discontinuation of the country’s ‘seclusion’ and due to the inferiority of the existing National Safety Laboratory. As a result, Hungary has to be prepared to cope with the emergence, or re-emergence, of diseases, which have not been seen at all, or for a long time in Hungary, and whose pathogens are more dangerous than the common ones. As Hungary is on the Eastern border of the EU, in addition to safeguarding its own epidemiological status, it has a gate-keeper function for the whole EU.

The project will aim at assisting Hungary in developing epidemiological safety in communicable diseases as well as ensuring its compatibility with the European Union. More specifically it will support:

- The development of rapid routine as well as high quality diagnostic capacities for common infectious diseases;
- The increase of epidemiological safety in communicable diseases by enabling rapid diagnosis of rare and emerging pathogens under adequate labour safety conditions.

The proposed development will provide the adequate laboratory support in order to meet the requirements of Decision No. 2119/98/EC of the European Parliament and of the Council on setting up a network for the epidemiological surveillance and control of communicable diseases in the Community, and, in particular, the requirements on Activation levels 1 to 3 in Annex II of Commission Decision No. 2000/57/EC for the diseases listed in Commission Decision No. 2000/96/EC.

Objective 3 - REGIONAL POLICY

2002/000-180-03-01 Preparations for the implementation of the INTERREG Community Initiative
This project aims at preparing the Hungarian administration and the potential intermediaries, beneficiaries for the participation in Interreg programmes. In particular, it intends developing the local absorption capacity for Interreg programmes and promoting the territorial integration across the Central European Space specifically with neighbouring countries, by supporting participation in the Interreg IIIB CADSES programme and launching specific pilot cross-border programmes with non-Accession neighbouring countries, in particular Croatia and Ukraine.

Indeed, the main challenge for the new phase of INTERREG is to progressively develop structures for co-operation across the Community and with neighbouring countries. In Hungary – in line with the Acquis – 7 Interreg IIIA programmes can be launched and implemented immediately after the accession. Two or three of the cross-border programmes would probably become internal Interreg programmes, while the rest could be supporting the development of external EU borders in co-operation with the Phare, Tacis and CARDS funds operated by the eastern neighbouring countries.

Objective 4 - ENVIRONMENT

2002/000-180-04-01 Support in the implementation of the Water Framework Directive

The project aims at assisting Hungary’s accession to the EU by contributing to the implementation of the Water Framework Directive (Council Directive 2000/60 EC) through the development of its (i) national accidental water pollution control system and (ii) monitoring system of surface waters and groundwater.

Accidental Water Pollution

While the status of quality of Hungarian waters is generally acceptable, their pollution bearing capacity is relatively and variably low. The number of accidental pollution events of surface waters is around 80 annually, of which some 10% originates outside Hungary. 80% of pollution is caused by hydrocarbons. Around 30% of all events require response of various forms, and the number of major events is around five annually. The project will assist in setting up an appropriate control system.

Surface waters

In order to have a proper surveillance monitoring system a basic survey is needed in the field of ecological status and the chemical status of surface waters. On the basis of the results gained appropriate reference water bodies can be selected for their characterisation in the future.

Groundwater

Hungary has started to develop the monitoring systems required by former EU Directives, but with the new WFD the monitoring requirements will substantially grow. The gap between the requirements and the current practices will be considerable especially in the field of ecological monitoring and of chemical monitoring with specific regard to dangerous substances. Especially the survey of the existing contamination level is missing in these areas which will be addressed in the project.
In particular the project will aim at:

- Strengthening prevention, intervention and mitigation capacities in the field of accidental water pollution control.
- Basic survey and quality assessment of surface water and groundwater bodies according to Annex 5 of the Water Framework Directive.
- Strengthening institutional capacities which are necessary to the introduction and implementation of the Water Framework Directive, especially in the fields of (i) prevention of accidental water pollution by industrial and agricultural facilities through the gradual introduction of the ‘safety installation’ principle and (ii) introduction of ecological monitoring of the quality of surface waters and (iii) quality assurance of monitoring surface waters and ground waters.

**2002/000-180-04-02 Institutional Strengthening of Environmental Inspectorates**

The present Hungarian environmental system was introduced approximately 20 years ago under a different political system. Modifications were made and the new structure and organisation has to be developed in order to meet the requirements of the EU Environmental Acquis, especially in the field of Permitting, Licensing and Compliance Control.

By now, the legislative tasks concerning the activities of the environmental inspectorates have been completed. The next steps relate to implementation, monitoring and enforcement and how to strengthen the environmental inspectorates so as to enable them to respond to the new tasks.

The project provides Institution Building support to strengthen the capacity of the environmental inspection system so as to enable them to fulfill the tasks ensuing from the EU acquis in particular in relation to Permitting, Licensing and Compliance Control.

**Objective 5 - JUSTICE AND HOME AFFAIRS**

**2002/000-180-05-01 Development of the Public Prosecutor Office**

A Phare project in 2000 established a nation-wide Information Network for the Organisation of Public Prosecution (OPP) in Hungary. This present project provides further development of the IT infrastructure of the OPP in order to complete its IT system. Complete development is indispensable to the adequate application of the acquis in the fields of national and international co-operation in criminal matters, especially as far as the future role of prosecutors in the European Judicial Network and in the EUROJUST are concerned. A consistent and up-to-date database is of special importance in the fight against organised crime not only for the OPP, but also for the other law enforcement institutions such as the Police, the Border Guard, the Customs and Finance Guards, and the Tax Police.
The results of this project will give the Hungarian prosecutors the possibility to set up on-line exchange with law enforcement institutions of Member States and other foreign authorities, to access prosecution applications, national registries, statistics and to benefit of an effective support for the prosecution work by applying IT technologies.

2002/000-180-05-02 Development and institutionalisation of the Co-ordination Forum on Drug Affairs

In 2000 the number of registered drug abusers grew consistently making Hungary a new target country for drugs. In order to prevent drug problems it is necessary to reinforce social awareness at all level. The Co-ordination Fora on Drug Affairs are locally initiated co-ordination bodies to encourage and harmonise all types of initiatives connected to drug affairs with special concern to prevention. This project aims at the strengthening and institutionalisation of these Fora and the reinforcement of their supervisory-counselling body which is the National Institute for Drug Prevention.

The project is based on a twinning assistance and on a Grant Scheme ensuring the development and implementation of local initiatives contributing to the true realisation of the National Strategy to Combat Drug Problem. A technical assistance is envisaged for the management of the grand scheme.

Objective 6 - OTHER INSTITUTION BUILDING ACTIONS

2002/000-180-06-01 Unallocated Institution Building Envelope

The project consists of an envelope for as yet unspecified Institution Building projects to provide assistance through twinning, twinning light and other form of technical assistance to specific urgent and unforeseen needs identified in the course of the accession negotiation process, in the preparation of the Action Plan of the Administrative and judicial capacity and during the Peer reviews. The project will target specific areas in relation to the challenges of the EU integration and to the negotiation chapter like preparation of future structural and regional policies.

The projects will deliver using advise from officials from Member States through medium or short assignments or from technical assistance provided by commercially contracted experts.

Programme Conditionalities

In view of the provisions of Article 4 of the Accession Partnership Regulation (EC 622/98), overall agreement on the present programme will depend on the Government's commitment to meet the relevant conditionalities. Project specific conditionalities have been included in the relevant project fiches. Programme conditionalities are listed below:

- The Government of Hungary will ensure that adequate human and financial resources are provided to the National Fund and the implementing Agencies so as to ensure the smooth implementation of the programme and in particular the implementation of the Grant schemes.
• In relation to the Grant scheme the European Commission through its Delegation in Hungary, will verify before the signature of the Financing Memorandum and on the basis of the review carried out in March 2001 and the additional information that become available after that date, if the relevant Implementing Agencies are able to manage without ex ante control on the tenders where Phare contribution is below 300,000 €. Should this not be the case the European Commission Delegation in Budapest will exercise full ex-ante control on the implementation of Grant schemes.

• The Hungarian Government will ensure that appropriate co-financing in accordance with the details included in the project fiches will be available in time. Unless otherwise specified in the project fiche co-financing for service, supply and works contracts should be intended as joint and the ratio between the Phare and the National amount has to be applied to the final contract price.

• Before proceeding to the signature of the financing Memorandum the EC Delegation will verify in co-ordination with the NAC and the Implementing Agencies that the projects tendering documentation is at an advanced stage of preparations that will allow the launch of tendering procedures in the six months following the signature of the FM. In that respect the Joint Monitoring Committee will have special meeting six months after the signature of the FM with the specific objective to review the contracting situation project by project and recommend, where necessary, reallocation of funds between projects that are running behind schedule and projects where the absorption capacity is good.

2. Budget

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The full list of the Twinning projects is provided as Annex 4.

3. Implementation Arrangements

a.) Financial and Project Management by the Candidate Country
The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures\(^2\).

The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes. The National Authorising Officer (NAO) and the Project Authorising Officers (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the DIS Manual and other instructions from the Commission and that all contracts are being prepared in accordance with the Practical Guide for PHARE, ISPA and SAPARD.\(^3\)

The NAC and the NAO shall be jointly responsible for co-ordination between PHARE (including PHARE CBC), ISPA and SAPARD.

The National Fund (NF) in the Hungarian State Treasury, 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 overall responsibility for financial management of the PHARE funds. He shall ensure that the PHARE rules, regulations and procedures pertaining to procurement, reporting and financial management as well as Community state aid rules are respected, and that a reporting and project information system is functioning. **This includes the responsibility of reporting all suspected and actual cases of fraud and irregularity.** The NAO shall have the full overall accountability for the PHARE funds of a programme until the closure of the programme.

**b.) Project size**

All projects will be greater than 2 M€, except the following: Preparations for structural funds in the agricultural sector, Sheep and goats identification and registration system, Human resources development in occupational safety, Institutional strengthening of environmental inspectorates, Development and institutionalisation of the Co-ordination Forum on Drug Affairs, Food Safety Agency.

The relatively small size is justified by the prevalent Institution building character of the above projects, which are largely implemented through purely soft actions.

**c.) Contracting and disbursement deadline;**

All contracts must be concluded by November 30, 2004 except for the Grant schemes that will be contracted before June 30, 2004. All disbursements must be made by November 30, 2005.

**d.) Recovery of Funds**

Any proven irregularity or fraud discovered at any time during the implementation of the programme will lead to the recovery of funds by the Commission.

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1 taking into consideration the rules set down in the annex of Council Regulation 1266/1999  
3 The Practical Guide has replaced section F (“Procurement”) of the DIS Manual
If the implementation of a measure appears not to justify either a part or the whole of the assistance allocated, the Commission is to conduct an appropriate examination of the case, in particular requesting the beneficiary country to submit its comments within a specified period of time and to correct any irregularity.

Following the examination referred to in the previous paragraph, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals irregularity, an improper combination of funds or a failure to comply with one of the conditions in the financing memorandum and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission’s approval has not been sought. Any reduction or cancellation of the assistance is to give rise to recovery of the sums paid.

Where the Commission considers that an irregularity has not been corrected or that all or part of an operation does not justify either all or part of the assistance granted to it, the Commission is to conduct a suitable examination of the case and request the beneficiary country to submit its comments within a specified period. After the examination, if the beneficiary country has undertaken no corrective measures, the Commission may:

(a) reduce or cancel any advance;

(b) cancel all or part of the assistance granted to the measure.

The Commission is to determine the size of a correction taking into account the nature of the irregularity and the extent of any failures in the management and control systems.

Any funds not used by the expiry date of the programme will be recovered by the Commission. A final written declaration with supporting documentation shall be issued by the NAO just after the end of the disbursement period of the Financing Memorandum showing the total amount contracted and disbursed. A final bank reconciliation showing the existing balances in the NF/IA/CFCU shall also be enclosed.

Notwithstanding the recovery of unused and ineligible funds after expiry of the Financing Memorandum, a complementary recovery order may be issued after the final audit of the reliability and consistency of contracts and disbursements as well as their compliance with the provisions of the Financing Memorandum has been carried out, taking into account the independent opinion of the final audit.

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 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 payments shall be charged on sums not repaid by applying the rules specified in the Financial Regulation governing the Community Budget.

e.) Financial Flows

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and Hungary on December 17, 1998. Funds
will be transferred following requests from the NAO onto a separate bank account, denominated in €, which will be opened and managed by the NF in the Hungarian State Treasury.

aa) Transfer of Funds to the National Fund

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 Finance and Contracts 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.

Two replenishments will be made of up to 30% of the funds to be managed locally and the final payment up to 20% or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 5% of the budget has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 35% of the total budget in force has been disbursed. The final replenishment will be paid when 70% of the total budget in force is disbursed. Exceptionally the NAO may request an advance payment of more than the percentage mentioned above in accordance with the procedures laid down in the aforesaid Memorandum of Understanding. Save for express prior authorisation from the Commission HQs, no replenishment may be made if the trigger points mentioned above have not been respected.

bb.) Transfer of Funds to the Implementing Agencies

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 NFs and the IAs/CFCU where applicable. Bank accounts for sub-programmes shall be opened in the name of the relevant Implementing Agency/CFCU in charge of the financial administration of the sub-programme in line with Art. 13 of the MoU on the establishment of the National Fund.

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 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 the operations carried out by the relevant CFCU/IA.

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.

cc.) Interest

In principle, all bank accounts⁴ 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.

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

All the projects will be implemented by the Central Contracting and Financing Unit except for the Grant Schemes foreseen under the project 2002/000-180-03-01 Preparations for the implementation of the INTERREG Community Initiative which will be implemented by the National Agency for Regional Development (NARD) within the Ministry of Agriculture and Regional Development.

g.) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive⁵ 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-mentioned directive. If a project falls within the scope of Annex I or Annex II of the EIA Directive, the carrying out of the EIA-procedure must be documented⁶.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive⁷ must be documented⁸.

All investment projects 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.

h.) Special rules for certain components for the programme

Twinning

The amounts earmarked for twinning projects will cover the eligible costs (as set down in the DIS instructions and in particular the Twinning Manual) for implementing the work plan agreed between the Member State and the Applicant Country. Subject to the conditions set in the

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⁴ in particular, but not exclusively, accounts run by the NF, the CFCU and IAs
⁶ in Annex EIA to the corresponding investment project fiche
⁷ DIR 92/43/EEC; OJ 206/7; 22.7.1992
⁸ in Annex Nature Conservation to the corresponding investment project fiche
Twinning manual the eligible costs may include costs incurred by the selected Member State during the preparation of the twinning covenant in the period between signature of the Financing Memorandum and the final notification of the financing approval of the covenant.

Grant Schemes

For grant schemes whose procedures and formats are not covered by the current DIS rules, the precise implementation arrangements will be specified in the relevant project fiches in line with the following principles:

- the procedures and formats to be used in the implementation of the schemes and award of the grants will follow the provisions of the Practical Guide. In particular, due care will be given to the selection process of the beneficiary projects, which has to be done at technical level through selection committees composed of experts appointed on a personal basis by the contracting authority.

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

- The ex ante approval of the Commission (Delegation in Hungary) will be required for the call for proposals, application forms, evaluation criteria, the selection procedures (including the composition of the committees) and results (list of projects to be funded). The grant contracts signed by the PAO will be subject to the ex-ante control of the EC Delegation.

The implementation of the selected projects through the provision of works, supplies and services sub-contracted by the final beneficiaries of the individual grants shall be subject to the procurement regulations in the Practical Guide. The decentralised system established for CBC small projects is to be applied to all such contracts where Phare contribution is below 300 000 EUR (or any increased threshold to be fixed by EC Headquarters for small project funds under CBC programmes). Tenders and contracts above this threshold will be presented to the EC Delegation for ex ante approval. The financial commitments in Phare terms will be effected at the date of signature of the grant contracts by the competent PAO. Project implementation and all Phare disbursements are to be done before the expiry date of the present Financing Memorandum.

Equipment procurement

In relation to the BSE tests to be procured under the project 2002/000-180-01-02 above, and in accordance with regulation 3906/89 (18/12/1989 OJ L375 of 23/12/1989) and the relevant Commission decisions, the Commission services, may, on a case by case basis and upon justified request by the National authorities, authorize exceptions to the rules of origin and nationality.
4. Monitoring and Assessment

Project implementation will be monitored through the Joint Monitoring Committee (JMC). It includes 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 Sectoral Monitoring Sub-Committees (SMSCs) which will include the NAC, the PAO of appropriate IA (and of the CFCU where applicable), project beneficiaries and the Commission Delegation. The SMSCs 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 SMSCs will report to the JMC, to which it will submit overall detailed reports on all Phare financed programmes.

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

5.) Audit and Anti-Fraud Measures

a.) By the Candidate Countries

Each year an audit plan and a summary of the findings of the audits carried out shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

Appropriate financial control shall be carried out by the competent national financial control authority with respect to the implementation of the programme.

Beneficiary countries shall ensure investigation and satisfactory treatment of suspected and actual cases of fraud and irregularity following national or Community controls.

Irregularity shall mean any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Fraud shall mean any intentional act or omission relating to:

(i) 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,

(ii) non-disclosure of information in violation of a specific obligation, with the same effect,
(iii) the misapplication of such funds for purposes other than those for which they are originally granted.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94.

In particular, all suspected and actual cases of fraud and irregularity as well as all measures related thereto taken by the national authority must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud and irregularity to report, the beneficiary country shall inform the Commission of this fact at the end of each quarter.

b.) By the Commission

All financing memoranda as well as the resulting contracts are subject to supervision and financial control by the Commission (including the European Anti-fraud Office) and audits by the Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned and on-the-spot checks.

In order to ensure efficient protection of the financial interests of the Community, the Commission may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96. 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.

6. 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 set down in the Annex “Visibility/Publicity”. (enclosed)

7. Special conditions

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

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8 OJ L 253; 7.10.00; p. 5-14
9 OJ L 292; 15.11.1996; p. 2-5
ANNEX ON
INFORMATION AND PUBLICITY FOR THE PHARE, ISPA AND SAPARD PROGRAMMES OF THE EUROPEAN COMMUNITIES

1. Objective and scope

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

2. General principles

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

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

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


Specific provisions concerning ISPA are included in:


Information and publicity measures must comply with the provisions of the above mentioned regulation and decision. A manual on compliance is available to national, regional and local authorities from the EC Delegation in the country concerned.

3. Information and publicity concerning Phare programmes

Information and publicity shall be the subject of a coherent set of measures defined by the competent national, regional and local authorities in collaboration with the EC Delegations for the duration of the Financing Memorandum and shall concern both programmes and other forms of assistance.
The costs of information and publicity relating to individual projects shall be met from the budget for those projects.

When Phare programmes are implemented, the measures set out at (a) and (b) below shall apply:

(a) The competent authorities of the applicant countries shall publish the content of programmes and other forms of assistance in the most appropriate form. They shall ensure that such documents are appropriately disseminated and shall hold them available for interested parties. They shall ensure the consistent presentation throughout the territory of the applicant country of information and publicity material produced.

(b) Information and publicity measures on the spot shall include the following:

(i) In the case of infrastructure investments with a cost exceeding EUR 1 million:

- billboards erected on the sites, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

- permanent commemorative plaques for infrastructures accessible to the 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.