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: 2002/000-315.01 to 03
Title: Phare National Programme for Hungary 2002 - Part II
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 74,007,000 EUR hereinafter referred to as "THE EC GRANT".
ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 30/11/2004 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. Etele Baráth  
State Secretary  
Government Commissioner for the National Development Plan and European Funds  
Office of the Prime Minister  
Pozsonyi út, 56  
H 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 2002 - iii- 1 5

Done at .......... Budapest
Date 2002 - iii- 1 5

for THE RECIPIENT

for THE COMMUNITY

Encl.
1. Framework Agreement (Annexes A & B)
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)
FRAMEWORK AGREEMENT BETWEEN THE COMMISSION OF
THE EUROPEAN COMMUNITIES AND THE GOVERNMENT OF THE REPUBLIC OF HUNGARY
FOR THE PHARE ASSISTANCE PROGRAMME BY THE EUROPEAN ECONOMIC COMMUNITY
TO THE REPUBLIC OF HUNGARY

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

The Government of the Republic of Hungary, hereinafter referred to as Hungary, of the other part,

and together jointly referred to as "the Contracting Parties"

Whereas Hungary is eligible to be a recipient under the Community's aid programme PHARE as provided for in the European Community Council Regulation No. 3906/89 of 18 December 1989

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

HAVE AGREED AS FOLLOWS:

ARTICLE 1

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

Hungary takes all necessary steps in order to ensure the proper execution of all measures.
ARTICLE 2

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

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

ARTICLE 3

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

ARTICLE 4

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

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

ARTICLE 5

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

ARTICLE 6

This Agreement is drawn up in the English language in two original copies.

ARTICLE 7

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

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

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

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

Done at Budapest on the third day of September in the year one thousand nine hundred and ninety.

THE GOVERNMENT OF HUNGARY

THE COMMUNITY
ANNEX A
GENERAL CONDITIONS RELATING TO FINANCING MEMORANDA

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

TITLE I - FINANCING OF PROJECTS

ARTICLE 1 - COMMITMENT OF THE COMMUNITY

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

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

ARTICLE 2 - AVAILABILITY OF THE EEC GRANT

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

ARTICLE 3 - DISBURSEMENT

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

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

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

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

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

TITLE II - PROCUREMENT

ARTICLE 4 - GENERAL

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

ARTICLE 5 - CONDITIONS OF PARTICIPATION

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

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

ARTICLE 6 - DEROGATION FROM STANDARD PROCEDURES

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

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

Such derogation shall be laid down in the financing memorandum.

ARTICLE 7 - AWARD OF WORKS AND SUPPLIES CONTRACTS

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

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

ARTICLE 8 - TECHNICAL COOPERATION CONTRACTS

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

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

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

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

ARTICLE 9 - GENERAL PRIVILEGES

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

ARTICLE 10 - ESTABLISHMENT, INSTALLATION, ENTRY AND RESIDENCE FACILITIES

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

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

ARTICLE 11 - IMPORT AND RE-EXPORT OF EQUIPMENT

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

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

ARTICLE 12 - IMPORTS AND EXCHANGE CONTROL

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

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

ARTICLE 13 - TAXATION AND CUSTOMS

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

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

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

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

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

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

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

TITLE IV - EXECUTION OF CONTRACTS

ARTICLE 14 - ORIGIN OF SUPPLIES

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

ARTICLE 15 - PAYMENT PROCEDURES

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

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

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

ARTICLE 16 - INSPECTION AND AUDIT

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

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

2. THE RECIPIENT shall:

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

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

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

ARTICLE 17 - FOLLOW-UP OF MEASURES

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

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

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

TITLE VI - GENERAL AND FINAL PROVISIONS

ARTICLE 18 - CONSULTATION - DISPUTES

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

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

ARTICLE 19 - NOTICE - ADDRESSES

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

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

ANNEX B - ARBITRATION

Any dispute between the Contracting Parties, arising out of the Framework Agreement or a financing memorandum, which is not settled by applying the procedures laid down in Article 18 of the general conditions relating to financing memorandum, shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

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

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

- one arbitrator shall be appointed by THE RECIPIENT
- a second arbitrator shall be appointed by THE COMMISSION
- the third arbitrator (hereinafter sometimes called "THE UPIRE") shall be appointed by agreement of the parties or, if they shall not agree, by the Secretary-General of the United Nations.

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

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

Special Provisions

1. OBJECTIVES, DESCRIPTION AND CONDITIONALITY

1.1 OBJECTIVES AND DESCRIPTION

OBJECTIVE 1. CONTRIBUTE TO ESTABLISHING THE CAPACITY TO EFFICIENTLY UTILISE FUTURE STRUCTURAL FUNDS ASSISTANCE

SUB-COMPONENT 1 INSTITUTION BUILDING PROJECTS AND PROJECT PIPELINE DEVELOPMENT

Phare has provided extensive institution building support in this area in previous years. In 2002 the focus will be on:

- Promote the mainstreaming of Roma issues in National and Sectoral Policies and the development of a more inclusive society;
- Support the development of a pipeline of projects eligible for funding under Structural Funds.

2002/000-315.01.01 Increasing the effectiveness of policies and programmes promoting Roma integration

From the experiences of the past years, it has become clear that the most effective way to have a wider impact on the social and economic situation of the Roma is to launch programmes with integrated measures. This requires extensive co-ordination in the phase of policy preparation and implementation. Following accession the various actors (ministries, regional agencies...) will implement measures set out in the various operational programmes of the National Development Plan (NDP) that will address the Roma population. These actors have varying degrees of expertise in Roma issues.

Moreover, the horizontal monitoring of Roma programmes is a definite need and is as well set out in the NDP. A proper monitoring system is essential to promote the mainstreaming of Roma issues in the National and Sectoral Policies.

This institution-building project would aim to develop a co-ordination body that plans, elaborates, co-ordinates and monitors programmes aimed at the integration of the Roma in close cooperation with all line ministries and the regions. Furthermore the project aims at establishing a system whereby through efficient co-ordination and clear communication channels between the actors, Roma issues can be mainstreamed and integrated measures can be implemented in order to address the problem of Roma integration using both national and EU funds.

In order to achieve the objective the project will:

- establish an effective system for mainstreaming Roma related issues in designing national and sectoral policies;
- establish an effective monitoring system for on-going Roma policies
- provide indications on how national and EU funds could be most efficiently used to tackle Roma related issues.
Although Hungary has made progress in addressing issues related to racism and intolerance as regards to legislation, there is a persisting tendency for intolerance and discrimination towards the Roma in all fields of life, including employment, education, access to public services and administration of justice.

The 2000 Report of the Parliamentary Commissioner for the Rights of National and Ethnic Minorities also states: "The largest domestic ethnic minority - the Roma community - is facing substantial disadvantages both in terms of housing and employment". According to the report this can be explained "partly by the impacts of prejudice, and discriminative behaviour on the part of the state, local governments or just simply the majority of society may be found as an underlying motive".

A considerable change in attitude of the public is needed to efficiently combat all kinds of discrimination. Unless this change is achieved, all other programmes aiming to improve the situation of the Roma (including those supported by Phare) will have a limited effect. The Hungarian Public may perceive the different government actions in a negative light if their deep-rooted prejudices are not modified.

The project aims at fostering the development of a more inclusive society based on non-discrimination and tolerance through launching extensive public information actions in the society at large, supporting the preparation of tolerance enhancing educational programmes in primary schools and funding specific anti-discrimination and tolerance-enhancing actions at local level.

2002/000-315.01.03 Project Generation Facility

The development of a pipeline of projects ready for funding under the Structural Funds upon accession is one of the main priorities for Candidate Countries in the area of Regional Policy. Several institution building projects have supported in the past the creation of a system of intermediaries with the task of assisting potential final project beneficiaries in project preparation. However, no instrument exists yet to provide direct support to the "potential" final beneficiaries of Structural Funds. The Project Generation Facility will support future final beneficiaries whose projects are expected to be financed by the Structural Funds.

This facility will cover all the phases of project preparation including the preparation of all necessary complementary documents (feasibility, drawings, technical documents etc) with the aim of having projects ready for funding.

The project will also provide support to regional and local actors for preparing projects with a view to promote absorption of the Structural Funds upon accession.

Sub-component 2 Structural Funds type measures

A comprehensive framework has been designed for programming, implementing and monitoring Structural Funds type measures funded through the Phare programme and the relevant Government resources in a way to contribute to the preparations for the Structural Funds.

In this context Phare support will:

- Start of a two-year county-wide Economic and Social Cohesion programme with 2 intervention areas – Regional and Local Development, Employment and Training;
Allow Government bodies and the other concerned actors to gain experience in programming, implementation and monitoring which will be relevant, upon accession, for the efficient use of the Structural Funds;

Strengthening partnership and inter-ministerial co-ordination through common planning and implementation and monitoring of the ESC sub-programmes, including vertical (government-region-municipalities) and horizontal (government- NGO) partnerships.

Promote mainstreaming of the support to those exposed to social exclusion, and in particular the Roma Minority, within the Economic and Social Cohesion framework in preparation for similar actions to be supported under the Structural Funds.

The preliminary National Development Plan (pNNDP) constitutes the basis for the investment projects to be financed under this sub-component of the Part II of the 2002 Phare National Programme.

The pNNDP has provided a useful training ground for testing programming of Structural Funds. This process is now under way with the preparation of the National Development Plan (NDP), which will, upon Accession, form the basis for the Community Support Framework containing the strategy and priorities for action of the Structural Funds. The pNNDP's main role in Hungary is to provide a sound basis for the programming of pre-accession funds and in particular the Economic and Social Cohesion Component of Phare.

This was already the case in 2001 when Economic and Social Cohesion projects where selected using the pNNDP. However, while this was a first useful step towards a more programme based approach, there is still considerable room for improving the effectiveness and the impact of Phare projects through further concentration of funding on fewer priorities, an increased use of grant scheme and a higher level of co-financing. This should lead, above all, at further gearing the implementation of Phare ESC to the structures relevant to the Structural Funds.

Using the pNNDP as the programming basis, the current programme will focus on two of the pNNDP intervention areas (mirroring as well two of the future Structural Funds Operational Programmes), namely:

- Employment and training: Employment and Social Inclusion, Education and Training opportunities
- Regional and local Development: horizontal actions with a specific regional character focussing on clusters of priorities common to several regions (e.g. Business development, Infrastructure development, Tourism, Environment and Human Resources Development)

In order to guarantee the success of the approach efforts have been made to mobilise the main participants who will be concerned with the Structural Funds preparations (both at Central and Regional level), and to involve them in the preparatory work and, as appropriate, the selection of the priorities and projects, the implementation and the monitoring of the projects and the evaluation.

For each of the selected priorities, Grant Scheme type projects have been designed under the supervision of the relevant Ministries.

While selecting the priorities and the projects the following has been taken into account:

- the compliance of the selected projects with the pNNDP priorities and the synergies among the different project proposed;
- the co-financing arrangements allowing the use of PHARE resources and of the connected Hungarian budgetary allocations, within one integrated programme
the character of the projects is similar to development measures supported by the European Regional Development Fund and the European Social Fund (e.g. economic development, human resources, economic infrastructure)

the principles of the use of the support (e.g. partnership, additionality, concentration) takes into account as much as possible the system in use under the Structural Funds, with the aim of helping the public administration at central and local level, as well as the other partners to efficiently utilise community support after accession.

the mechanisms for managing, implementing and monitoring, even taking into account Phare specificity, should be as closely as possible designed in a way to allow the actors gaining essential experience for the future structural funds (e.g. essential aspects like inter-ministerial co-ordination, partnership in programming and implementation, concentration of assistance....)

the design and the size of the projects ensures the necessary concentration of resources and the achievement of a measurable and tangible impact in relation to the problem identified

Funding for the projects to be financed under this component will come from Phare and from the Hungarian National Budget. The level of co-financing from the two sources is set out in Table I.

The current Programme also marks a departure from the “target region approach”. This is in line with the expected eligibility of the whole country to Objective 1 of the Structural Funds. Focus and concentration of the limited funding available under PHARE in such a way as to produce a tangible, measurable impact, has been achieved through limiting the number of priorities and targeting areas throughout the country with a specific disadvantage.

2002/000-315.01.04 Combatting exclusion from the world of work

Reference to the pNDP:

Intervention Area: Employment and training

Priority: Improving employability and access to labour market of target groups facing difficulties

Measure 1: Improving employability and labour market integration of the long-term unemployed

Measure 2: Improving employability and labour market reintegration of the Roma

Project Description:

Phare will provide co-financing to public work schemes addressing the above priority. The project will be implemented through a grant scheme with two components covering the two above measures.

The project aims at:

- Improving employability and labour market reintegration of long-term unemployed and people living on regular social assistance, with special emphasis on the Roma population
- Developing local community and public services including social services through the employment of long term unemployed and people living on regular social assistance schemes

The general objective of the public work schemes is to organise a new employment scheme to support local initiatives of the municipalities in handling unemployment an in delivering municipal tasks and services at the same time. Public work schemes as an active secondary labour market measure are designed to activate long-term, low skilled unemployed and for those depending on social assistance who at present are not able to meet the requirements of the private segment
of the open labour market by offering fixed term employment. Fixed term employment especially if accompanied by complementary motivation, reintegration and training elements is expected to lead to new attitudes to regular work, motivation to improve skills and utilizing assistance in seeking permanent employment. Public works serve local interest and create values for the communities on its own initiative.

A particular component of the project will target long term unemployed belonging to the Roma Minority. Whilst in the 80's 60-80% of Roma men and 50% of Roma women in the active age group had stable employment, the structural changes in the industry made low qualification workplaces redundant and by the 90's primary education or vocational education in those professions typically acquired by the Roma devalued rapidly. Lacking education and financial reserves the Roma could not respond to these rapid changes by any relevant coping strategies and the level of unemployment among them raised dramatically.

2002/000-315.01.05 Information technology in primary schools

Reference to the pNDP:

Intervention Area: Employment and training

Priority: Fighting poverty

Measure 1: Offering better access to initial education for people living in scarcely populated regions and small settlements

Project Description:

In order to promote the equality of chances and the reduction of regional and social disparities the project will support the complex development of primary school infrastructure in Hungary in disadvantaged areas. The project is aimed in particular at providing better access to good quality primary education for children in disadvantaged regions through improving quality of primary education in scarcely populated areas.

The physical improvement of primary school premises will be combined with the extension of the use of Information and Communication Technology in all beneficiary institutions.

The proposed programme foresees support in three main areas:

♦ the physical upgrading of primary education buildings;
♦ improving the Information and Communication Technology background of primary schools;
♦ promoting the wider use of ICT and e-learning in the education of children in disadvantaged regions.

The focus of the support will be in all cases on the wider use of ICT. The project will be implemented through two grant schemes covering physical improvement on school buildings, investment in ICT and the development of ICT related teaching material and teacher's training respectively.

2002/000-315.01.06 Promotion of integrated local development actions

Reference to the pNDP:

While the pNDP includes Regional Strategies and priorities and measures are defined at regional level, the proposed project covers all the NUTS II Hungarian regions within a single thematic
framework.. This new approach, reflected in the preparation of the National Development Plan, is in line with the Government decision to have, within the Community Support Framework, one centrally managed Operational Programme for Regional Development where priorities are thematically defined.

The formulation of the priority and of the measures listed below is a synthesis of a number differently formulated but closely related priorities and measures defined in the pNDP for each single Region.

**Intervention Area:** Regional and local development

**Priority:** Creating attractive business and social environment through local initiatives

**Measure 1:** Regeneration of urban and settlement areas with a view to the creation or development of job-creating economic activities

**Measure 2:** Improving access to or road infrastructure within depressed urban areas or settlement areas in poor conditions

**Measure 3:** Improving employment based on local initiatives

**Project Description:**

The new socio-economic structure of Hungary has developed as a result of the economic transition. While some areas have known dynamic development, other small regions have stagnated. One third of the small regions in Hungary can be regarded as developing ones. However also the more developed small regions have considerable untapped economic potential. Thus, regardless of the regions’ development level, it is essential to ensure the sustainability of the development activities, contributing to the strengthening of settlement centres and the improvement of human resources in order to increase employment and income levels.

Within this framework, the project will focus on settlements in poor conditions with economic potential, settlements with unused or under-exploited industrial areas or unused military sites, or with depressed urban areas.

Phare will co-finance one Grant scheme with three components covering the three above measures. The following activities will be eligible for Grant funding:

- Integrated development and regeneration of depressed urban areas, or settlement areas in poor conditions in small regions with unused economic potential in order to induce primarily small-scale retail business activities or to improve the attractiveness of the settlement for tourism, in particular investments in infrastructure where modernisation or regeneration is a prerequisite for the creation or development of job-creating economic activities.

- Regeneration and conversion of unused or under-exploited industrial areas or military sites, which also contribute to a change in the function of the zone, if possible. The implemented developments should contribute to improvement of the employment and should lead to the revival of economic activities.

- The construction or improvement of roads to urban areas or sites identified under the first component, including access roads, roads connecting settlements in case of joint application of settlements, junctions and bicycle paths within those areas, will be co-financed under this component.

- Employment programme in the field of social economy

- Implementation of training programmes for people of employable age, which meet local labour market needs in order to reduce or avoid unemployment.

In order to maximise project impact the resources will have to be concentrated ensuring that infrastructure development activities and employment programmes will be implemented in the
small regions where eligible settlements can be identified based on the social-economic analysis and the SWOT of the region or the regional strategy.

In addition, it is expected that the project will constitute a valuable training ground for regional and local actors in view of the implementation of Structural Funds. In fact the objectives of the project reflect the most important regional needs and this type of activities are likely to be continued under the Structural Funds framework within the future Operational Programme for Regional Development (OPRD). The project also combines ERDF and ESF type activities, as will be the case in the future OPRD.

The activities to be implemented in the framework of the social economy component through the increase of employment will contribute to the strengthening of sustainable development at a local level. The realisation of integrated local settlement development actions contributes to the provision of balanced and sustainable living conditions, to the development of the general state of cleanliness of the settlements. The activities supported are likely to have a favourable impact on the protection and bio-diversity conservation of natural values and habitats located within the settlements. The construction of roads under this grant scheme can have effects on ecosystems and the landscape. If these effects are considerable, mitigation measures should be applied and the location of the road should be carefully planned. In case the new road diverts traffic from a more congested area, the air and noise pollution will decrease in the loaded area.

**OBJECTIVE 2. – INSTITUTION BUILDING ACTIONS IN THE FIELD OF JUSTICE AND HOME AFFAIRS, CUSTOMS MODERNISATION AND CIVIL SOCIETY DEVELOPMENT**

Under this objective Phare supports project in acquis related areas, which are in line with the Action Plan for Administrative and Judicial Capacity. These projects are additional to those that have already been included in Part I of the 2002 National Programme and cover the fields of Justice and Home Affairs, Customs and Civil Society.

2002/000-315.02-01 Development of law enforcement information systems

The project is part of a long-term programme initiated by the Ministry of Interior and laid down in the NPAA, which aims at reaching EU standards in the field of Justice and Home Affairs by the time of accession. For 2002, the focus is on better control of the external border and on fighting against cross-border organised crime on the one hand and on the increase of data security and availability of the national IT systems and databases on the other hand. For this reason, the capacity of Hungarian law enforcement authorities to co-operate with partner organisations in the EU Member States will be improved. In line with the Schengen Acquis, structures are to be put in place that meet the management requirements at the future external borders of the European Union. The Ministry of Interior is preparing the national visa, migration, border protection and policing tasks' IT support in its basic form by 2002, using both national and Phare funds. This IT support aims at covering all conditions arising from the Schengen requirements. It is expected that at the end of the project the following results will be achieved:

- The Hungarian law enforcement bodies will be equipped with operational SIS IT system conforming to EU-requirements and compatible with that of the neighbouring (present and future) EU Member States' Schengen Information System. The applications relevant to Justice and Home Affairs will be developed further to integrate them and to meet SIS requirements.
- The increased security and availability level of the Hungarian databases related to Justice and Home Affairs will create a solid base for the smooth integration and non-disruptive operation of future National SIS.

The project will finance software development, IT procurement and other technical assistance covering provision of the national system to join the SIS, access to National Databases and enhancement of the IT system security.
2002/000-315.02-02 Improving conditions for better re-socialisation of Juvenile offenders

The project overall objective is to contribute that the Hungarian penitentiary system approaches the quality standards applied within the European Union and in line with the Recommendation of the Council of Europe 1987 No. R (87) 3, European Prison Rules.

The project aims at:

- Improving treatment and regional accommodation of juvenile inmates;
- Decreasing estimated proportion of recidivism among juvenile prisoners by adopting more effective prevention methods.
- Decreasing overcrowding among adult prisoners through establishing the conditions of their accommodation within the prison facilities previously functioning as institutions for juveniles.

The present situation in Hungary in relation to juvenile detention institution is not adequate and existing facilities are overcrowded. The establishment of new facilities in Pécs (Southwest Hungary), co-financed by Phare, will help improving the living conditions of the young offenders to European standards.

Phare will also support, through an ad hoc twinning arrangement, the establishment of special programmes as education, further education and vocational training as well as special education of prison staff with the aim of enhancing the re-socialisation of juvenile delinquents.

2002/000-315.02.03 Integration of EU TARIC and NCTS systems into the customs IT environment

To project aims at facilitating electronic data exchange between the EC and Hungary in relation to the TARIC and NCTS systems. In that context it will support the successful implementation of the tasks defined in the National Inter-operability Implementation Strategy of the Hungarian Customs and Finance Guard (HCFG), in line with the ensuing action plan.

The project will ensure:

- Continuation of the inter-operability project of the Hungarian customs administration without any break;
- Adaptation of EU TARIC and NCTS systems;
- Development and installation time-schedule, which corresponds to the deadlines of the Hungarian National Inter-operability Implementation Strategy;
- Installation of the IT environment that operates the central databases of national TARIC and NCTS, assurance of the needed data transmission bandwidth towards customs offices.

Through the project, HCFG will receive funding for the partial replacement of the obsolete IT equipment necessary to ensure inter-operability.

2002/000-315.02.04 Access 2002

In order to meet the 'Copenhagen political criterion', Hungary is expected not only to formally subscribe to the principles of the rule of law, human rights and the respect for and the protection of ethnic minorities, but to implement and establish the necessary institutional framework that supports their sustainability. Functioning non-governmental and non-profit organisations
(NGO/NPO) have a key-role in articulating the demands of citizens through active participation and consciousness-raising. NGOs have also a key role in empowering socially disadvantaged groups and improving socio-economic cohesion.

The main objectives of this project are: promoting the implementation of the *acquis communautaire* in policy areas in which the third sector plays an important role; raising popular awareness and acceptance in these areas and encouraging the inclusion and participation of individuals and groups who risk being economically and socially or politically marginalised in the transformation process.

The Access programme will support the NGO/NPO activities in the following two sectors:

1) activities related to the adoption and the implementation of the *acquis communautaire* in the fields of environmental protection, socio-economic development, promoting and monitoring human rights (including anti-discrimination);

2) activities in the social and health sector, which aim at contributing to the social reintegration and/or to promote sustainable health and social support for marginalised groups of the population.

The project will be implemented through a Grant scheme following an open call for proposal for the eligible NGOs/NPOs.

**OBJECTIVE 3. – SUPPORT PARTICIPATION IN COMMUNITY PROGRAMMES AND AGENCIES**

**2002/000-315.03.01 Participation in Community programmes and agencies**

This project will provide funding, as co-financing to the Hungarian State budget, to enable Hungary to continue or begin participation in a number of Community programmes and agencies. This co-financing will cover primarily the costs of participation in 2003. Both co-financing and participation will take place on the basis of the relevant Memoranda of understanding or Association Council decisions.

**1.2 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.
- By the mid-August 2002, the NAO will assess if, following the implementation of the recommendations made by the Government Control Office in relation to the EDIS Gap assessment the ESF Implementing Agency can implement Phare projects. It will also review if the progress made by the Agency will allow the lifting of ex-ante control for secondary procurement in Grant schemes with Phare contribution below 300,000. A final positive decision on both accounts will be taken before the signature of the financing Memorandum by the EC Delegation and will be conditional to a strict respect of the action plan agreed with the GCO in relation to EDIS. Should the decision be negative the National Agency for Regional Development will take responsibility for the implementation of the projects originally assigned to the ESF implementing agency.
- Hungary will pursue the process of Extended decentralisation (EDIS) for Phare implementing Agencies as a matter of priority. By mid September 2002, action plans will be established covering Stage II of the process (Gap plugging) with the view of arriving to an accreditation in the course of 2003. The plans will indicate in details the actions deemed necessary and include an indication of timing and an estimate of the necessary financial resources.
- Following a verification in the context of the 2001 National Programme, the EC Delegation in Budapest confirmed that ex-ante control for secondary procurement in Grants schemes with Phare contribution below 300,000 could be lifted for the Central Financing and Contracting Unit and the National Agency for Regional Development. The EC Delegation will review, before the signature of the Financing Memorandum, the situation on the basis of the information that has become available after that date including the EDIS Gap assessment carried out by the Government Control Office in February this year. Should this analysis lead to negative conclusions 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 grants, service, supply and works contracts should be understood 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 project 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 a special meeting six months after the signature of the FM with the specific objective of reviewing the contracting situation project by project and recommending, where necessary, reallocation of funds between projects that are running behind schedule and projects where the absorption capacity is good.

2. **Budget**

<table>
<thead>
<tr>
<th></th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>IB</td>
</tr>
<tr>
<td>2002/000-315.01</td>
<td>18.5</td>
</tr>
<tr>
<td><strong>Establish capacity to utilise Structural Funds Assistance</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Sub-Component 1 - Institution Building</strong></td>
<td></td>
</tr>
<tr>
<td>01 - Increasing the effectiveness of policies and programmes promoting Roma Integration</td>
<td></td>
</tr>
<tr>
<td>02 - Promote anti-discrimination and tolerance towards the Roma minority</td>
<td></td>
</tr>
<tr>
<td>03 - Project generation facility</td>
<td></td>
</tr>
<tr>
<td><strong>Sub-Component 2 Structural Funds type Measures</strong></td>
<td></td>
</tr>
<tr>
<td>04 - Combating exclusion from the world of work</td>
<td></td>
</tr>
<tr>
<td>05 - IT in primary schools</td>
<td></td>
</tr>
<tr>
<td>06 - Promotion of integrated local development actions</td>
<td></td>
</tr>
<tr>
<td>2002/000-315.02</td>
<td>6.065</td>
</tr>
</tbody>
</table>
The full list of the Twinning projects is provided as Annex 4.

**GOVERNMENT CO-FINANCING**

The programme is co-financed by the Hungarian Government.

For the project 2002/000-315.03.01, this follows the provisions of the Association Council Decisions or memoranda of Understanding establishing the terms and conditions for the participation in the respective Community programmes and agencies for the other projects the amounts that the Government will provide to the programme in 2002 and 2003 are included in Table I and specified in more details in the individual project fiches.

**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) procedures¹.

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 of the Commission, and that all contracts are being prepared in accordance with the Practical Guide for PHARE, ISPA and SAPARD.²

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 Ministry of Finance, headed by the NAO, will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. The NAO shall have 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

---

¹ taking into consideration the rules set down in the annex of Council Regulation 1266/1999
² The Practical Guide has replaced section F ("Procurement") of the DIS Manual
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 for 2002/000-315.01.01 "Increasing the effectiveness of policies and programmes promoting Roma integration". The small size is justified by its purely institution building nature.

c.) Contracting and disbursement deadline

Grant schemes that will have to be contracted by June 30, 2004. All other contracts must be concluded by November 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.

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 17th December 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 the 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 of 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 third 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 percentages 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

* excluding the amount foreseen for the Community programmes
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.

cce.) Transfer of Funds to the National Fund for Participation in Community Programmes and Agencies

A single advance will be made to the National Fund to cover the full amount of the PHARE part of the financial contribution for participation in Community programmes and agencies. This advance will be made following signature of the Financing Memorandum and upon request from the National Fund.

This advance is separate from the advances made for the rest of the programme. However, it should be noted that the Phare contribution for each programme will only be transferred when the Association Council Decision or Memorandum of Understanding establishing the terms and conditions for participation in that programme is in force.

If there is a delay in the entry into force of some of the Memoranda of Understanding, the payment to the National Fund may be divided into two or more tranches, so that 100% of the funds necessary for the programmes in force can be transferred immediately.

The National Fund will be responsible for transferring the funds back to the Commission, following the call for funds of the Commission’s Directorate General responsible for the programmes concerned and within the deadlines requested.

dd.) Interest

In principle, all bank accounts\(^3\) 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 Financing and Contracting Unit (CFCU) in the Ministry of Finance, with the following exceptions:

- 2002/000-315.01.04 & 05 which will be implemented by the ESF Implementing Agency, subject to the fulfilment of the specific conditionality included under the section "Programme Conditionalties";
- 2002/000-315.01.06 which will be implemented by the National Agency for Regional Development
- 2002/000-315.03.01 for which specific structures exist in line with the relevant Community Programme implementation provisions.

g.) Environmental Impact Assessment and Nature Conservation

---

\(^3\) in particular, but not exclusively, accounts run by the NF, the CFCU and IAs
The procedures for environmental impact assessment as set down in the EIA-directive⁴ 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 would fall within the scope of annex I or annex II of the EIA Directive, the carrying out of the EIA-procedure must be documented⁵.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive⁶ must be documented⁷.

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) for implementing the work plan agreed between the Member State and the Applicant Country. 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 by the authorities which are co-financing the schemes as well as by the relevant administrations and interest groups involved in the schemes.

- 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.

⁵ in Annex EIA to the corresponding investment project fiche
⁶ DIR 92/43/EEC; OJ 206/7; 22.7.1992
⁷ in Annex Nature Conservation to the corresponding investment project fiche
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. Nonetheless, once public procurement legislation has been amended to ensure full alignment with the relevant public procurement directives, and provided that single procurement actions respect the principles included in the Phare regulation\(^8\), grant beneficiaries may use national procurement rules for Works contract up to 300,000 €, service contracts up to 200,000 € and Supply contracts up to 30,000 €.

The decentralised system established for CBC small projects is to be applied to all such contracts 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.

It is expected that projects 2002/000-315.01.04, 05 and 06 will receive additional funding in the context of the Phare National Programme 2003. For this reason the relevant Implementing Agencies will be allowed to launch the call for proposals for the above projects on the basis of the combined 2002 and 2003 budget as specified in Table I. The call for proposals will have to clearly indicate that funding for selected projects exceeding the available 2002 budget will be conditional to the approval and the content of the 2003 financing memorandum.

4. Monitoring and Evaluation

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

For the PHARE programme, the JMC will be assisted by Sectoral Monitoring Sub-Committees (SMSCs) which will include the NAC, the PAO of each Implementing Agency (and of the CFCU where applicable) and the Commission Services. The SMSCs will review in detail the progress of each programme, including its components and contracts, assembled by the JMC into suitable monitoring sectors. Each sector will be supervised by one SMSC on the basis of regular monitoring reports produced by the Implementing Agency, and interim evaluations undertaken by independent evaluators. The SMSCs 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 opinions on all Phare financed programmes in its sector.

For the purpose of this programme, a single Sectoral Monitoring Sub-Committee (SMSC) will be set up, to monitor all the projects included under Objective 1. The Committee will chaired by the National Development Office in the Prime Minister's Office in its capacity ad the body designated as managing authority for the Community Support Framework. The National Development Office will also ensure the secretariat of the Committee. The Committee will include: the EC Delegation, the body designated as managing authority for the Operational Programme for Regional Development, the body designated as managing authority for the Human Resources Development Operational Programme, the body designated as paying, a representative of the body charge of co-ordinating Roma policies, the IAs including the CFCU, two representatives from the

\(^8\) Council Regulation 3906/89 and subsequent amendments
Regions and representatives of the Social partners. Other Ministries or Agencies will be invited as appropriate. The relevant services from the Commission Headquarters (DG ELARG, REGIO and EMPL) will be invited to take part in the Committee meetings.

The SMSC will meet at least twice a year and will ensure proper monitoring of the relevant projects. In case implementation of projects is not proceeding satisfactorily the SMSC can, in accordance with the provision of Art.5 para 3 of the MoU on the establishment of the National Fund, recommend to the NAO reallocation of funds from non-performing to performing projects.

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\(^{15}\).

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 con-

\(^{15}\) OJ L 178; 12.7.94; p. 43-46
tracting 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\(^\text{14}\).

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.

\(^{14}\) OJ L 292; 15.11.1996; p. 2-5
<table>
<thead>
<tr>
<th>TABLE I</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indicative bi-annual financing table for 2002-2003 (M€)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2002 (Part I and Part II)</th>
<th>2003</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Phare</td>
<td>Government</td>
</tr>
<tr>
<td>Develop Administrative capacity in acquis related areas</td>
<td>52.553</td>
<td>22.673</td>
</tr>
<tr>
<td>Establish Capacity for Structural Funds (of which)</td>
<td>41.5</td>
<td>31.42</td>
</tr>
<tr>
<td>Capacity Building and anti discrimination actions in favour of the Roma</td>
<td>3.5</td>
<td>1.28</td>
</tr>
<tr>
<td>Project Generation Facility</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td>Combating Exclusion from the world of Work</td>
<td>6</td>
<td>4.8</td>
</tr>
<tr>
<td>IT in Primary Schools</td>
<td>2</td>
<td>1.34</td>
</tr>
<tr>
<td>Promotion of Integrated Local Development Actions</td>
<td>15</td>
<td>12</td>
</tr>
<tr>
<td>Community Programmes*</td>
<td>17.647</td>
<td>24.67</td>
</tr>
<tr>
<td>Total</td>
<td>111.7</td>
<td>78.763</td>
</tr>
</tbody>
</table>

* The above table is drawn on the assumption that in 2003 Phare support for participation in Community Programmes in 2004 will not be necessary. Should this assumption not materialise the 2003 Financing Memorandum will be adjusted to include under this priority the necessary amount from Phare resources and the correspondent co-financing amount from the Government of Hungary.
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.