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

HAVE AGREED AS FOLLOWS:

The measure referred to in Article I 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 I below shall be implemented is set out in the General Conditions annexed to the Framework Agreement of 12 March 1991 between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this 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: RO 9904
Title: Enterprise Restructuring and Employment Conversion Programme (RICOP)
Duration: Until 31/12/2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of € 100 million hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 31 December 2001 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 31 December 2002. 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:

EC Delegation in Romania
11, Strada Grigore Mora
71278 Bucharest
Romania

e-mail: office@rom.eudel.com
Fax: 40 1 230 2453

for THE RECIPIENT:

The Government of Romania
Department for European Integration
Piata Victoriei 1
Bucharest
Romania

Tel. 40-1 312 47 32
Fax 40 1 312 6929

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 following signature by both parties, immediately upon signature by the parties of the Memorandum of Understanding on Severance Pay referred to in Annex 2, Special Conditions (Annex C). No expenditure incurred before this date of entry into force is eligible for the EC GRANT.

The Annexes, including the Memorandum of Understanding on Severance Pay referred to above, shall be deemed an integral part of this Financing Memorandum.

Done at Bucharest
Date 30.12.1999

for THE RECIPIENT

Mr. Petre Roman
Deputy Prime Minister
Minister of Foreign Affairs of Romania
National Phare Coordinator

for THE COMMUNITY

Mr. Fokion Fotiadis
Head of European Commission
Delegation to Romania

Annex 1  Framework Agreement (Annexes A & B)
Annex 2  Special Provisions (Annex C)
Annex 3  Information and publicity for the Phare, ISPA and SAPARD programmes of the European Communities (Annex D)
ANNEX C

Enterprise Restructuring and Employment Conversion Programme (RICOP)

SPECIAL PROVISIONS

OBJECTIVES, DESCRIPTION AND CONDITIONALITY

A. OBJECTIVES

This programme is lodged within the context of the Accession Partnership and the National Programme for Accession to the EU. The overall objective is to assist the Government in moving towards fulfilling EU membership criteria in the area of economic policy.

The immediate objectives of the programme are to:

- assist the government to implement policies and actions to restructure, privatise or close loss making enterprises,
- alleviate the consequence of enterprise closure through a strengthened social safety net and through the promotion of employment initiatives;
- encourage economic activity leading to sustainable employment creation through assistance to Small and Medium Enterprises and micro businesses.

B. PROGRAMME DESCRIPTION:

There are five main components to the programme; Redundancy Intervention; Public Works; Employment Promotion Initiatives; Small Business Finance; and Social Response Measures. Taken together represent an integrated approach to enterprise restructuring and employment conversion. These are outlined below:

Component 1 - Redundancy Intervention (Outplacement and severance pay)

Outplacement services aim to ensure early intervention in the redundancy process to ensure that those under notice of redundancy are placed in alternative employment or receive advice support and guidance to ensure that they are able to actively engage in the job search process and deal with the immediate implications of redundancy. They will be provided to individuals under notice of redundancy from enterprises listed in the Redundancy Plan.

The activity will be implemented through a Technical Assistance contract(s); the budget (up to 1 M €) is included within the overall TA budget.

Indicatively, around 5,000 workers under notice of redundancy will receive counselling and advice.
Phare co-financing of **Severance Pay** will relieve part of the budgetary burden caused by the restructuring of the major loss making state owned industries. Co-financing will be provided in respect of workers in state enterprises identified in the *Restructuring Plan* to be proposed by the Romanian Authorities and agreed with the Commission.

Total Phare budget allocation is up to a maximum of 28 M €. The Phare contribution will represent not more than 40% of the total cost of severance payments to the specified group of workers being laid off, and will be paid to the Unemployment Fund following lay-offs.

Around 60,000 workers will receive severance pay.

The **Severance Pay** component will be implemented under strict control and monitoring. This will ensure that payments (in the form of partial reimbursement) are made only to the national unemployment fund up to the limits defined under the Financing Memorandum. Severance pay will be reimbursed only in respect of enterprises included under the Restructuring Plan, where job losses have resulted from the implementation of plans to restructure, privatise or liquidate loss-making state enterprises.

**Component 2 - Public Works**

The Public Works component aims to create short term employment (combining training) opportunities through public works projects designed to improve the quality of life of communities suffering from industrial restructuring and improve the attractiveness of the area for inward investment. It is targeted to areas and communities affected by closure and restructuring of enterprises listed in the Restructuring Plan. At least 50% of the jobs created under this component should be filled by unemployed workers laid-off under the Restructuring Plan.

The maximum Phare Phare budget allocation is 14 M €.

Projects may include social housing, investment in hospitals, vocational training establishments, schools, local transport and environmental infrastructure, industrial site stabilisation and reclamation, etc. Where necessary, projects must ensure compliance with procedures regarding environmental permits under Romanian legislation on environmental protection.

It is expected to implement around 140 projects, resulting in approximately 4,600 work placements.

**Component 3 - Employment Promotion Initiatives**

**Active Employment Measures**

This component aims to provide vocational training opportunities and/or sustainable jobs in new and existing businesses or projects through the delivery of locally
prescribed solutions aimed at ensuring the diversification of the local economy and employment market.

The activities will be implemented by entrepreneurs, Training Providers, Associations, NGOs and other legal bodies competent to participate in this Programme through the implementation of projects which will generate employment and training opportunities for redundant workers in the target area.

The indicative Phare budget allocation 9 M €.

Activities will include:

- Assistance and Consultancy for establishing micro businesses;
- Training and Re-training of workforce;
- Business Incubators;
- Wage subsidy for recruiting redundant workers;
- Projects capable of generating sustainable employment and training opportunities in a cost effective manner.
- Provision of vocational training appropriate to the demands of new job opportunites in viable economic activities.

The component aims to create or support the creation of approximately 8,000 jobs and to provide approximately 6,000 training places. It is intended that approximately 80% of these opportunities will be made available to redundant workers coming from enterprises included in the Restructuring Plan.

**Component 4 - Finance**

This component will provide incentives for the formation and development of the SME and Micro business sectors in the locations designated in the Restructuring Plan, affected by the closure/restructuring of enterprises and ensuing redundancies. It will support the creation of new sustainable jobs and further promote the transition to a functioning market economy.

It is targeted to entrepreneurs within the SME and Micro Business sectors. The indicative Phare budget allocation is 30 M €.

A range of financial schemes will be created to provide practical and timely responses to the financial needs of entrepreneurs in disadvantaged areas. Rigorous criteria for project selection will be applied within a flexible framework to ensure direct support to the SME and Micro sectors at local level, and to ensure that the jobs created are within sustainable businesses.

Indicatively, it is expected that 10,000 jobs created in SME’s and Micro businesses.

**Component 5 - Social Response Measures**

The component aims to provide social support and employment opportunities to those hardest hit by industrial restructuring, through the creation of social services in order
to alleviate the distress caused by unemployment and to maintain the social stability required to fully implement the programme of economic transition.

It is targeted to people laid off in the target area and their family members who are severely deprived because of poverty, deviant behaviour, inappropriate housing, health problems associated with professional illnesses, poor nutrition, stress and alcoholism. Subsidies will be provided for the setting up and running of social centres, reintegration centres and emergency centres.

Social infrastructure support to facilitate the functioning of Social Services will be eligible for financing under this measure. The projects submitted will have to be based on a local partnership which will input part financial support. The Phare contribution will be tapered with an increasing local contribution.

The indicative Phare budget allocation is 10 M €.

It is expected to support approximately 50 social centres, 10 reintegration centres and 10 emergency centres. Around 17,500 deprived people will be assisted in the centres. Approximately 1,300 new jobs will be created, out of which at least 900 filled in by redundant workers or members of their families.

The components of the RICOP programme, outputs and form of assistance to be provided are summarised in the following table:

<table>
<thead>
<tr>
<th>Component</th>
<th>Output</th>
<th>Form of assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Redundancy intervention</td>
<td>Advisory services; severance pay</td>
<td>TA; direct budgetary support</td>
</tr>
<tr>
<td>2. Public works</td>
<td>Works projects improving the local environment and creating jobs</td>
<td>Conventions between CFCU and municipalities permitting contracts between municipalities and works contractors</td>
</tr>
<tr>
<td>3. Active employment measures</td>
<td>Jobs and training opportunities</td>
<td>Conventions between CFCU and approved local implementing bodies</td>
</tr>
<tr>
<td>4. Small business finance</td>
<td>Soft loans/partial grants to viable small business projects</td>
<td>Loan/grant agreements between fund managers and entrepreneurs</td>
</tr>
<tr>
<td>5. Social measures</td>
<td>Local capacity to deliver social services strengthened</td>
<td>Conventions between CFCU and approved local implementing bodies</td>
</tr>
<tr>
<td>Technical assistance</td>
<td>Programme implementation structures strengthened</td>
<td>Contracts with CFCU</td>
</tr>
</tbody>
</table>

The design of programme components is presented in detail in the project fiche, and a series of descriptive annexes attached to the project fiche. The design of all components, with the exception of severance pay, draws on experience gained in a number of previous Phare programmes; the arrangements for implementation take this experience into account, but modifications in the delivery mechanisms, as compared with these previous projects, have been made in order to take into account the increased scale of the programme, and the requirement that the present programme
should be delivered in a number of specified locations. Previous programmes were to a considerable extent directed towards areas where a demand was expressed and capacity existed to implement projects; this programme will be targeted to specific locations where needs exist but local institutions are not necessarily well prepared. This implies the requirement for a more pro-active and flexible approach to supporting local implementation structures where these may not be well-developed.

Relevant previous Phare programmes are described in an annex 5 to the project fiche. They include: Programme of Active Employment Measures (RO9209) which provided support to local consortia to develop innovative solutions for job creation; Vocational Education and Training “VET” (RO9405) which developed and tested modernised training curricula; a component of the energy programme (RO9504) providing active response measures (850 Keuro) to cope with the distress caused by the restructuring of the coal mining industry and massive redundancies in Gorj county and Jiu Valley; the Mining Areas Restructuring Fund (RO9808), which expands the approach developed under RO9405; SMEs support (1992, 1994,1997 Phare allocations) which included a conditional grant scheme for SMEs; Human Resources Development Programme (RO9701) to strengthen human resources management capacity in commercial companies; Regional Development Programmes (RO9708 and RO9805); Social Services Development Programme “SESAM” (RO 9209 and RO 9305); Disaster Damage Reconstruction Programmes (1997 and 1998); FIDEL (Local Economic Initiatives Programme; RO9408).

NB In relation to each of the programme components described above, with the exception of severance pay, the estimated number of individuals benefiting from the support, and the average cost per beneficiary of the activity, are based on experience in similar activities financed by previous Phare programmes in Romania. The figures are indicative; actual costs and the number of beneficiaries who can be reached may be found to be significantly different in the operational conditions under which the programme will be implemented.

C. CONDITIONALITY

In recognition of the agreed wider objectives of this Programme, which are to support the process of economic restructuring necessary to prepare Romania for Accession, the Government of Romania:

i. **Shall establish and implement** a Restructuring Plan for a number of specific loss making enterprises, to be selected in view of the size of their financial deficits and arrears, which forms the basis for the targeting of this programme. This Restructuring Plan will identify: (a) the enterprises and plants at which restructuring will take place; (b) the intentions of the Romanian authorities with respect to each enterprise or plant (that is, (i) privatisation, or (ii) liquidation, or (iii) break-up of the enterprise into separate units, followed by liquidation or privatisation of each of the units); (c) the number of workers expected to be made redundant; (d) the timing of redundancies.

The package of measures proposed under this programme at each locality is conditional upon the implementation of this Restructuring Plan.
With the exception of contracts for national-level Technical Assistance, local Managing Agents, Fund Managers, and Outplacement Services, no activities under the RICOP Programme will be contracted until significant progress has been achieved in implementing the Restructuring Plan as it relates to the main loss-making enterprises in the target location, and progress in implementing the Restructuring Plan has resulted in redundancies in line with the anticipated levels of job losses in the Plan.

Therefore, for each of the five target locations, no contracts for public works, active employment measures, SME and micro-business financing and social measures will be concluded until the EC Delegation has received satisfactory reports confirming progress in implementing the Restructuring Plan in relation to the main loss-making enterprises in that target location.

To allow sufficient time for the implementation of all contracts, the implementation of all measures envisaged under the Restructuring Plan and the resulting redundancies will take place within 15 months of the signature of the Financing Memorandum. In the case that the measures envisaged in the Restructuring Plan for the loss-making enterprises in any of the five target locations are not implemented within this timeframe, the Commission shall have the right to terminate all ongoing activities relating to the target location in question. The funds allocated to the target location(s) where activities are terminated will not be reallocated to another target location unless the Commission is able to make a positive overall assessment of the process of macro stabilisation and economic restructuring as defined under item (ii) of this conditionality.

ii. **Accepts** that support within this programme depends upon the continuous commitment of the government to macro economic stabilisation and economic restructuring. The Commission reserves the right to make ad hoc assessments of the achievements of the Government in addressing its economic reform programme and the transformation of the status of the major loss making state enterprises. Progress in implementing agreements with the IMF and World Bank will be an important indicator of the Government’s continuous commitment to economic reform. Subject to a positive assessment, the Commission may consider the re-allocation of resources between regions and between programme components.

iii. **Makes a commitment** to preparing a monthly Restructuring Monitoring Report on the enterprises listed in the Restructuring Plan. This Report will review performance in respect of restructuring, privatisation and closure of enterprises and plants and reduction in employment. The report will form the basis for claims for payments under the Severance Payments component of this programme. This report will be prepared by the State Ownership Fund assisted by the Ministry of Labour and Social Protection and will be audited by the Commission.
iv. **Agrees** that the partial reimbursement of severance pay under this programme is made only in the context of the diligent implementation of plans for restructuring, privatisation and liquidation of loss-making state enterprises included in the agreed Restructuring Plan. In the event that funds provided under this component of the programme shall have been used for reimbursement of severance pay, but, in the view of the Commission, it has become apparent that significant progress has not been achieved with restructuring, privatisation and liquidation resulting in normal financial discipline being imposed on the enterprise(s) concerned, the funds so provided shall be reimbursed by the Government of Romania to the European Commission.
### D. BUDGET (MEURO)

<table>
<thead>
<tr>
<th>Component</th>
<th>Investment</th>
<th>Institution Building</th>
<th>Total Phare</th>
<th>Recipient*</th>
<th>IFI</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Redundancy intervention</td>
<td>-</td>
<td>28</td>
<td>28</td>
<td>42</td>
<td>-</td>
<td>70</td>
</tr>
<tr>
<td>2. Public works</td>
<td>14.0</td>
<td>-</td>
<td>14</td>
<td>1.5</td>
<td>-</td>
<td>15.5</td>
</tr>
<tr>
<td>3. Active employment measures</td>
<td>-</td>
<td>9</td>
<td>9</td>
<td>4</td>
<td>-</td>
<td>13</td>
</tr>
<tr>
<td>4. Small business finance</td>
<td>30</td>
<td>-</td>
<td>30</td>
<td>-</td>
<td>-</td>
<td>30</td>
</tr>
<tr>
<td>5. Social measures</td>
<td>8</td>
<td>2</td>
<td>10</td>
<td>2</td>
<td>-</td>
<td>12</td>
</tr>
<tr>
<td>Technical assistance</td>
<td>-</td>
<td>9</td>
<td>9</td>
<td>-</td>
<td>-</td>
<td>9</td>
</tr>
<tr>
<td>RICOP Programme</td>
<td>52.0</td>
<td>48.0</td>
<td>100.0</td>
<td>49.5</td>
<td>-</td>
<td>149.5</td>
</tr>
</tbody>
</table>

* Recipient contributions are calculated to include contributions for local partners made in cash and/or in kind, as well the contribution of the state budget.

N.B. It is not envisaged that any part of the budget will be contracted directly by the Commission. The full value of the programme will, therefore, be transferred to the National Fund.

Allocation of funds under the programme between the five target locations shall be proportional to the number of lay-offs envisaged for each location under the Restructuring Plan.

### IMPLEMENTATION ARRANGEMENTS

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures, with the exception of the programme component for the co-financing of severance pay. The arrangements relating to severance pay are described below, and are the subject of a specific Memorandum of Understanding to be signed between the Commission and the Romanian authorities and annexed to the Financing Memorandum. The National Aid Coordinator (NAC) will have overall responsibility for programming, monitoring and implementation of all components of this programme.

### General arrangements

For all components, the following arrangements shall apply. (However, funds for severance pay will not be managed by the CFCU: the specific arrangements are described below.)
The National Fund (NF) in the Ministry of Finance, headed by the National Authorising Officer (NAO), will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. Appropriate financial control shall be carried out by the competent National Control Authority with respect to the implementation of the programme.

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and Romania on 20 October 1998. Funds will be transferred following requests from the NAO. A payment of up to 20% of the funds to be managed locally will be transferred to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Central Finance and Contracts Unit (CFCU), and of the Memorandum of Understanding on Severance Pay attached to the Financing Memorandum. 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 CFCU and the manner in which the payment function will be carried out. The designation of the official responsible for implementation of the MoU on Severance Pay must also be provided.

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

The National Fund will transfer funds to the CFCU in accordance with a Financing Agreements (FAs) signed between the NF and the CFCU. The FA will be endorsed in advance by the European Commission. The CFCU 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 CFCU.

A separate bank account denominated in Euro will be established for the funds transferred from the Commission to the NF for this programme, in a Bank agreed in advance with the Commission. The account will be managed in a separate accounting system. In principle, all bank accounts will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme. The same procedures will apply to any funds transferred to the CFCU.

The NAO and the PAOs will ensure that all contracts are be prepared in accordance with the procedures set out in the DIS Manual.
All contracts must be concluded within two years of signature of the Financing Memorandum. All disbursements must be made within three years of signature of the Financing Memorandum.

Any funds not used by the expiry date of the programme will be recovered by the Commission.

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

**Arrangements relating to severance pay**

The Commission will make available to the Romanian national budget a maximum amount of 28 million Euro as partial co-financing of severance payments made by the National Unemployment Fund, managed by the National Agency for Employment and Training (NAET) of the Ministry of Labour and Social Protection.

This partial co-financing (up to 40%) will be provided in respect of the severance payments for around 60,000 workers who will become redundant as a consequence of the restructuring of the enterprises in 5 selected target locations. The list of target locations, the specific enterprises to be restructured and eligible for support under the RICOP programme, the government’s intentions for each enterprise as regards privatisation, liquidation or restructuring of each enterprise, and the number of workers expected to be made redundant as a result of the planned measures, are listed in the Restructuring Plan to be annexed to the Memorandum of Understanding on severance pay referred to above.

The Memorandum of Understanding, forming an annex to the Financing Memorandum, covers obligations of all parties in terms of: the formal approval of the overall Restructuring Plan; reporting on implementation of this Plan; eligible categories of workers for whom the costs of severance pay can be partially reimbursed; the limits up to which these payments can be reimbursed; the forms in which claims for transfer of Phare funds should be presented; the establishment of a clear audit trail linking the transfer of Phare funds to specific payments to individual eligible redundant workers who lose their jobs in the context of implementation of the Restructuring Plan; arrangements for monitoring, and the prevention of fraud and hidden re-employment contrary to theintentions of the restructuring plan.
The Commission will transfer the Phare funds for severance pay to the National Fund (NF) in the Ministry of Finance, under the responsibility of the National Authorising Officer (NAO), as for the rest of the funds for this programme. The NAO will supervise the financial management of the severance pay component, and will be responsible for reporting to the European Commission. Appropriate financial control shall be carried out by the competent National Control Authority with respect to the implementation of the programme. The NAO will transfer the amounts received from the Commission directly to the National Unemployment Fund, subject to the Commission’s prior written approval. These transfers will be made in tranches linked to six-monthly claims for reimbursement prepared by the National Agency for Employment and Training in accordance with Memorandum of Understanding on severance pay referred to above. Transfer of the funds will depend on the Commission’s positive assessment of the monthly Restructuring Monitoring reports provided on the implementation of the Restructuring Plan for loss-making enterprises annexed to the Memorandum of Understanding on severance pay, and on an independent audit of the claims for reimbursement which will show that the claims are based on actual payment of severance pay to eligible workers made redundant from enterprises included in the Restructuring Plan.

The accounts and operation of the severance pay component of the programme will be checked at regular intervals by an outside auditor contracted by the CFCU out of the technical assistance budget of the programme, on terms of reference satisfactory to 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 and the Framework Agreement.

**Arrangements relating to Public Works**

Projects will be proposed by local authorities in locations eligible for support under the RICOP programme. Project selection will be made by the local steering committees established under the programme for each location. Selection will be in accordance with the criteria established in the project fiche, and will be subject to the endorsement of the EC Delegation.

The programme will be managed by the CFCU within the Ministry of Finance as Implementing Agency.

The Commission will transfer funds relating to this component to the NF through the mechanism defined under General Arrangements.

Contracting for public works will be subject to the following:

- All contracts of an expected value exceeding 50,000 Euro must be awarded following an open tendering procedure;
- The Ministry of Finance will ensure that every tender is announced in the local or national press, including a publication in a Community language Romanian newspaper; and that announcements are provided in time to the Member States’ embassies in Bucharest;
• One general information notice will be published in the EU Official Journal covering all the expected projects;

• The Phare rules of eligibility and origin must be complied with, and no discrimination on the basis of nationality will be applied;

• For projects above 300,000 Euro:
  - the Ministry of Finance will contract separately works supervision;
  - for works contracts, local implementing authorities will follow international procurement rules, with FIDIC works contract models, and submit tender documents, evaluation reports and contracts via the Ministry of Finance for endorsement by the EC Delegation.

National Implementing Authority (NIA)

The National Implementing Authority (NIA) for this programme under Phare DIS rules will be the Prime Minister. The Prime Minister may delegate the responsibilities of the NIA to the government minister charged with overall responsibility for co-ordination of IMF and World Bank assistance in support of economic restructuring and for implementation of the Restructuring Plan referred to under the programme conditionalities described above. The minister will be supported in the management of the RICOP programme by the Programme Implementation Unit of the Romanian government established to ensure fulfilment of the conditions of the IMF and World Bank loans. The NIA will also be supported by an important technical assistance contract to support operational implementation of the Phare-financed programme, and by separately contracted technical assistance for monitoring and quality control.

National Advisory Committee (NAC)

A National Advisory Committee (NAC) will be established comprising representative from relevant public bodies. It will receive reports from the Technical Assistance to National Implementing Authority (TA to NIA) and provide policy advice and guidance to the TA to NIA and the other agencies involved in the implementation of the project.

Local Steering Committee (LSC)

A Local Steering Committee (LSC) will be established in each of the programme’s target locations. The LSCs will be composed of the main stakeholders in the area.

The LSCs, acting on behalf of the NIA will approve project selection criteria and the project selection reports provided by a local Managing Agent, ensuring the local balance among three types of measures (Employment Promotion Initiatives, Social Response Measures and Public Works). The LSC will make sure that projects selected are consistent with the expected output of the programme and are congruent with local development needs. The EC Delegation will retain the right to make a final decision on the approval or rejection of projects.
The LSC will be required to endorse project implementation reports, prepared by the Managing Agent, prior to forwarding these (with invoices) to the CFCU for payment.

Managing Agent (MA)

A local Managing Agent (MA) will be appointed by the Local Steering Committee to deal with Active Employment and Social Response Measures. The MA will be responsible for organisation of calls for expressions of interest, screening and appraisal of proposals against pre-established evaluation criteria and submission of evaluation reports to the LSC and CFCU for approval. It will assist the CFCU to conclude financing agreements for projects selected for Phare support, and will carry out technical and financial monitoring of project implementation. The MA will report to the LSC and the TA to NIA.

The Managing Agent will provide project implementation reports (including invoices), via the LSC, to the CFCU for payment.

Fund Managers (FM)

One Fund Manager will be contracted by the CFCU for each of the programme’s target locations, following a tender process, to assess applications for Grant and Credit made by SME’s and Micro businesses. Following approval by the LSC, the CFCU and the Delegation, the fund manager will conclude financing agreements with selected applicants under DIS rules.

CFCU

The CFCU is the implementing agency under Phare DIS rules, and will be responsible for the overall contractual, financial and payment arrangements at national and local level and will ensure conformity with Financing Memorandum and Phare Procedures, for all components with the exception of severance pay. The Delegation will endorse all financing agreements and procurement documentation in excess of 50,000 Euro.

Technical Assistance

An Technical Assistance Team (TA to NIA), will provide support to all aspects of the project, including: contracting, monitoring and paying for the services of the Managing Agents; training of managing agents, provision of expertise for the overall process of selection and implementation of local projects, procurement support, continuation of outplacement services, and other services essential to the programme. In addition, the TA to NIA will assist the Local Steering Committees in the performance of their responsibilities.

Outplacement Services will be contracted by the CFCU in line with the programme description detailed above.
Technical Assistance to support co-financing of severance payments will be contracted by the CFCU, specifically to monitor compliance with conditionalities.

Enterprise business plans will be contracted by the CFCU to support development of potentially viable business units which emerge as a result of enterprise restructuring or closure in a limited number of cases of particular macro economic importance. Counter-expertise, will be contracted to support the Commission in its analysis and validation of the proposals contained within business development proposals produced under this component.

Fund Managers will be contracted by the CFCU to provide services as described above and will receive financial and technical support in line with that offered to Managing Agents.

Quality Control and respect of operational procedures and Ex-Post Monitoring and Evaluation will be undertaken by consultants contracted by the CFCU. Independent financial audits, including audits of claims for severance pay, will also be contracted by the CFCU as required by the Commission.

TA support to the CFCU will be provided in line with the specific requirements of contracting and financial management for this programme.

MONITORING AND ASSESSMENT

A Joint Monitoring Committee (JMC) will be established. It will include the National Authorising Officer (NAO), the National Aid Co-ordinator (NAC) and the Commission. The JMC will meet at least six monthly 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 my recommend a change of priorities and/or the reallocation of Phare funds.

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

AUDIT AND EVALUATION

The accounts and operations of the National Fund, the CFCU and all relevant Implementing Agencies may be checked at the Commission’s discretion by an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the European Union’s Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement.
The Commission’s services shall ensure that an ex-post evaluation is carried out after completion of the Programme.

VISIBILITY AND PUBLICITY

The 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.

SPECIAL CONDITIONS

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

The Restructuring Plan referred to in the Conditionalities will take into account financial resources available from other sources, or expected to become available, to support the costs of restructuring in specific industrial sectors. For this reason the mining sector is not expected to be covered under the Restructuring Plan. In the event that the Government decides to undertake further significant mining sector restructuring, mining enterprises in agreed target areas could, with the Commission’s written approval, be added to the eligible enterprises included in the Restructuring Plan, subject to the limitations on reallocation of funds within the programme established in the Financing Memorandum.
MEMORANDUM OF UNDERSTANDING

The European Community, represented by the Commission of the European Communities, hereinafter referred to as “the Commission”,

of the one part,

and

The Government of Romania, represented by the Ministry of Finance and the Ministry of Labour and Social Protection, together with the State Ownership Fund, hereinafter referred to as “the Romanian authorities”

of the other part

have agreed as follows:

In matters relating to the activation and implementation of the proposed RICOP Programme (Restructurarea Intreprinderilor si Conversie Profesionala) the term "Restructuring Plan" designates the complete list of enterprises to be restructured, combined with a statement of the intention of the Government about the nature and timing of the restructuring;

the term "Target Location" refers to the Judet(s) defined in Annex and which will be the focus of this Programme.

Article 1. Project amount and payment conditions

1.1 The Commission will make available to the Romanian national budget a maximum amount of 28 million Euro as partial co-financing of severance payments made by the National Unemployment Fund, managed by the NAET of the Ministry of Labour and Social Protection. This partial co-financing will be provided in respect of the severance payments for approximately 60,000 workers who will become redundant as a consequence of the restructuring of the enterprises in 5 selected target locations. The list of target locations, the specific enterprises to be restructured in the context of the RICOP programme, the government’s intentions for each enterprise as regards privatisation, liquidation or restructuring of each enterprise, and the number of workers expected to be made redundant as a result of the planned measures, are listed in the Restructuring Plan annexed to this Memorandum of Understanding.

1.2 For each redundant worker eligible for severance pay under the terms of this Memorandum, the Commission will approve a payment to the Romanian national budget of an amount not exceeding 40% of the actual severance pay received by that redundant worker. The total co-financing provided by the Phare programme in respect of each redundant worker will be limited to 465 Euro.

1.3 The conditions for commitment of this co-financing are as follows:

1. Prior to any transfer of Phare funds under this Memorandum of Understanding, the Romanian Parliament will adopt an amendment to the Budget Law of 1999. Transfer of Phare funds in respect of severance payments occurring in subsequent years will require an appropriate clause to be included in the subsequent years’ budget law. This
amendment will refer to the specific enterprises listed in the Restructuring Plan and expected number of redundancies in each enterprise expected to occur as a result of implementation of the Plan. It will establish, in line with this Memorandum of Understanding which it will specifically refer to, that the Phare co-financing of the national budget is provided solely for the purpose of covering the expected deficit in the Unemployment Fund resulting from payment of severance pay to employees made redundant from enterprises listed in the Restructuring Plan.

The amendment will guarantee that the conditionality of the Programme is respected, that an effective restructuring of the specified enterprises takes place and that any abuse will be prevented.

2. The government will formally adopt the Restructuring Plan, including the list of eligible enterprises to be restructured, and/or to be downsized and/or to be liquidated. The enterprises must be state owned (the government must participate for at least one third in the shares of the enterprise), and they must be located in the 5 target locations defined in Restructuring Plan in Annex.

The Restructuring Plan establishes the government’s intentions (on the advice of the State Ownership Fund) in relation to each enterprise, specifying what procedure will be applied: whether the enterprise will be downsized, privatised, or a combination of both or liquidated. The number of redundant workers and the precise timetable for the lay offs expected to result from the restructuring plan will also be specified.

3. A complete and accurate list of the employment cadre in each firm on the list will be provided, detailing the employment situation as of 31 May 1999. Eligibility for co-financing severance pay will be assessed in relation to the established employment cadre in each enterprise as of that date.

4. The co-payments for the severance payments will only be paid for workers with a regular labour contract, working for the eligible enterprises and who are entitled to severance payments.

5. There will be no hidden re-employment of the redundant workers by the previous employer, either through subsidiaries, via service contracts, deals with captive suppliers or in any other way which runs counter to the spirit of this Programme.

1.4. The conditions for disbursement are as follows.

1. NAET will co-operate with SOF in preparation of a monthly report on implementation of the Restructuring Plan specified in article 4 (iii) below.

2. Submission, six months after the approval of the Financing Memorandum, and subsequently at six monthly intervals thereafter, of a claim for the reimbursement to the state budget of not more than 40% of the actual severance pay paid to eligible workers, the amount of co-financing not to exceed 465 Euro in respect of each eligible redundant worker. This claim will be supported by the accounts of the NAET. Lei/Euro exchange rates used for calculation of the amounts due will be the NBR rates prevailing on the dates when the specific payments to eligible redundant workers were made.

3. The reimbursement will depend on the establishment of a clear audit trail which will demonstrate that Phare funds are being claimed only in respect of severance payments actually made to eligible workers. The receipts for payment to be signed by
the eligible workers should be specially designed, and should provide the information that the benefit received is eligible for partial Phare funding.

**Article 2 Role and duties of the NAET**

2.1 Role and key functions

The NAET is responsible for management of the National Unemployment Fund from which Severance Payments are provided to redundant workers subject to Government Ordinance no.9/1997 (Enterprises benefiting from the general scheme of severance payments). Phare funds under this memorandum will be transferred to the national budget for the purpose of partly covering the deficit in the Unemployment Fund expected to result from the implementation of the Restructuring Plan.

The NAET, under the supervision of the Ministry of Labour and Social protection will:

i. draft and in co-operation with the Ministry of Finance introduce an Ordinance to amend the 1999 budget of the State Social Insurance Fund as specified in Article 1;

ii. verify that the severance payments for which Phare co-financing will be claimed are paid only to workers with a regular labour contract, working for the eligible enterprises and who are entitled to severance payments;

iii. submit, six months after the approval of the Financing memorandum, and subsequently at six months intervals, a claim for the reimbursement to the NAET of up to 465 Euro or 40 % of the actual amount of severance pay provided (whichever amount is the lower) for each eligible redundant worker. This claim will be supported by the accounts of the National Unemployment Fund;

iv. establish specific receipts for payment to be signed by the eligible workers, which provide the information that the benefit received is eligible for partial Phare funding;

v. transfer to the Commission, in an electronic format of standardised individual records, accounts of the payment of the severance payment by the NAET which permit auditing of the implementation of the scheme on the basis of the eligibility of the individual workers for whom Phare co-financing of severance pay is claimed.

vi. co-operate fully with other Romanian authorities and the Commission in monitoring the implementation of the scheme, including, if this is considered necessary, tracking the employment situation of workers or groups of workers made redundant through implementation of the Restructuring Plan for a period of up to twelve months after their being made redundant from the target enterprises, with the aim of preventing fraud or abuse of the scheme.

Any fraud or abuse of the co-financing of the severance payments, be it in respect of the letter of this agreement and in respect of the spirit of it, may lead to the Commission requiring reimbursement by the NAET of part or all of the funds transferred under this Memorandum of Understanding.

2.2 Monitoring

The NAET will provide all information required for the proper monitoring of the Programme implementation. This includes the above mentioned documents, the necessary information to
verify the payment of the severance payments to the selected workers, individual records of redundant workers and enterprises, as far as necessary, and other relevant information requested by the Commission.

Article 3 Role and duties of the Ministry of Finance

3.1 Role and key functions

The Ministry of Finance will co-operate with the Ministry of Labour and Social Protection and NAET in drafting and introducing the ordinance referred to in Article 2.

3.2 Monitoring

The Ministry of Finance will support the monitoring functions defined in this Memorandum of Understanding.

Article 4 Role and duties of the State Ownership Fund

4.1 Role and key functions

The State Ownership Fund will implement the Restructuring Plan annexed to this Memorandum of Understanding.

The SOF will:

i. Before the end of 1999, update the list of enterprises to be restructured during the year 2000, taking into account the progress which will have been achieved until that moment with the implementation of the Restructuring Plan. This updated list must further contribute to the overall RICOP programme objectives. A similar update for the year 2001 may be required before the end of the year 2000.

ii. Shortly after the signature of this Memorandum of Understanding, provide a complete and accurate list of the employment situation in each firm, referring to the situation as of 31 May 1999. For the updated list for the year 2000 (or 2001 if necessary), the employment situation will refer to 31 December of the year 1999 (or 2000);

iii. Provide a monthly report on progress in implementation of the Restructuring Plan, including specific information the development of the employment situation (both redundancies and recruitment) in the listed enterprises, and progress in privatisation, liquidation or restructuring in line with the intentions defined in the Restructuring Plan.

4.2 Monitoring

The SOF will provide all information required for the proper monitoring of the Programme implementation. This includes the above mentioned documents, any necessary information to verify the payment of the severance payments to the selected workers, individual records of redundant workers and enterprises, as far as necessary, and other relevant information requested by the Commission.

5. Auditing

The management and disbursement of funds will be subject to supervision and monitoring at all stages of Programme implementation.
The NAET will institute a regular reporting system for the Commission, which will contain precise and up-to-date information on receipts and disbursements. Should there be a failure to file reports, subsequent funding will be withheld until proper and complete reporting has been re-established.

In accordance with the Financing Memorandum, the accounts and operation of the Programme will be checked at regular intervals by an outside auditor contracted under the Technical Assistance budget of the programme on Terms of Reference approved by the Commission, without prejudice to the responsibilities of the relevant services of the Commission and the Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum and the Framework Agreement.

The Ministry of Finance, the SOF and the NAET will also provide access by the Commission and the Court of Auditors to all records needed to audit the application of the General Conditions annexed to the Financing Memorandum. They will provide all necessary support for the establishment of a clear audit trail which will demonstrate that Phare funds are only being used to reimburse severance payments actually made to eligible workers.

6. Timing of Programme implementation.

While the timing of Programme implementation may be subject to modification, any indication of slippage, or of jeopardising the objectives of this Programme, may result in cancellation of the Programme at any time during its execution. If more than 50 percent of the proposed restructuring (as measured by the number of redundant workers) in a specified target location does not take place within 15 months from the date of signature of the Financing Memorandum, then this target location may forfeit its Programme allocation and the money will be re-allocated to other locations or will be withdrawn.

7. Interpretation

In case of doubt, the provisions of the present Memorandum of Understanding shall be interpreted in the light of the objectives and conditions of the programme detailed in the Financing Memorandum, of which this is an annex.

For all matters relating to implementation of this Programme, the following names and contact numbers are provided:

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National Agency for Employment and Training (NAET).
Mr.
7. Further information
Further details concerning the objectives of this Programme and of the respective rights and obligations arising are contained in the Financing Memorandum of which this is an annex.

Signature:
Date:

Head of the European Commission Delegation

Signature:
Date:

…………………
State Secretary of the Ministry of Labour and Social Protection

Signature:
Date:

State Secretary of the Ministry of Finance

Signature:
Date:
General Director of the SOF