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 Slovenia, 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 7th October 1992 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: 2003/004/381
Title: 2003 Cross Border Co-operation Programme between Slovenia and Hungary
Duration: Until 30/11/2005

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of € 2 million hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

1 The Financing Memorandum structure is as follows: 1. the coverpages with the references to the country concerned, amount and authority to sign, 2. Framework Agreement incl. Annex A and Annex B; Annex C –Special Conditions (the text of the adopted financing proposal starting from Description and Objectives onwards; and Annex D 'Visibility/Publicity.
For the present MEASURE, THE EC GRANT is hereby available for contracting until 30/11/2005 subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT, which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is 30/11/2006. 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. Erwan Fouéré
Head of Delegation
European Commission Delegation in Ljubljana
Trg Republike, 3, XI
1000 Ljubljana
Fax: (386-1) 425 2085

for THE RECIPIENT:

Mr. Janez Potocnik
Minister for European Affairs
Government Office for European Affairs
Phare National Aid Co-ordinator
Subiceva 11
1000 Ljubljana
SLOVENIA

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

for THE RECIPIENT for THE COMMUNITY
................................. .................................
................................. .................................

Encl.  
2. Special Provisions (Annex C)  
3. Visibility/Publicity (Annex D)
ANNEX C TO FM

1. Objectives and Description

1.1. Wider objectives

The general objective of the Hungary-Slovenia Phare CBC Programme is to promote co-operation in the border regions of the two countries. Cross-border co-operation is regarded as a means of solving common concerns in the area of nature protection, stimulating economic activities in these regions and to assist them in overcoming specific development problems, which arise from their peripheral position within their respective national economies. In addition, the Phare CBC Programme aims to promote the creation and further development of networks on both sides of the border. The programme supports the process of integrating Hungary and Slovenia into the European Union.

1.2. Immediate Objectives and Programme Results

The following priorities of cross-border co-operation will be targeted in 2003 in line with the JPD Hungary-Slovenia:

° Improvement of Employability – Promotion of active labour market policies to prevent and fight unemployment, strengthening of the adaptability of the workforce and entrepreneurship, corresponding to Measure 1 of the Priority 2: Human Resources Development of the JPD.

The focus will be on the reintegration of the unemployed to the labour market; improvement of the employment conditions of the unemployed and partnership building programmes to support local employment initiatives on both sides of the border.

This joint project will be complemented by a Joint Small Projects Grant Scheme which will facilitate contacts between people living in the border region and will support the preparation of feasibility studies, plans etc. in order to get prepared for the coming programming periods.

1.3. Programme description

The programme has been designed following frequent bilateral contacts between Hungary and Slovenia, several consultations with EC Delegations in both countries and DG Enlargement recommendations reflecting in fact the Commission Regulation No. 2760/98, as amended by Regulation No.1596/2002, concerning the implementation of CBC programmes in the framework of the Phare programmes. The projects selected for support in the Phare CBC Hungary-Slovenia 2003 Programme are in accordance with the content of the JPD. The following projects will be undertaken:

**Project 2003/004-381-01 and 2003/004-561-01 Maximisation of human resources potentials in the border region**
The overall objective of the project is to fight unemployment and promote employment through the development of the human resources’ skills in the cross border region. In the fields of demographics and human resources’ development, in particular the smaller settlements along the border are facing the same problems of ageing population, depopulation and lack of workplaces, which creates structural unemployment and high unemployment rate. The common problems of the border area are the social exclusion of long-term unemployed, lack of motivation to participate in the vocational training and other educational programmes. Noticeable is also a mismatch between the offered training and educational programmes with the needs of the labour market. In order to solve the common problems of the area, joint actions should be implemented, such as: the promotion of the re-integration of long-term unemployed, women and young people into the labour market through the implementation of training and education programmes aiming at improving their employability; the improvement of co-operation and co-ordination between labour market organisations as well as the development and implementation of training programmes adapted to the needs of the regional economy.

The activities of the Grant Scheme will promote the reintegration of the unemployed to the labour market, support the employment of the unemployed, build partnership programmes to support local employment initiatives, assist setting up joint systems for anticipating changes and extend the use of IT communication for improving co-operation between organisations providing labour market services through the following eligible activities:

- Development and implementation of special training and employment programmes tailored to the needs of the unemployed, with an emphasis on priority target groups such as long term unemployed, women, young people
- Development and implementation of practice-oriented training programmes for the unemployed (e.g. in-company training etc.)
- Development of innovative joint employment programmes, including those supporting new forms of work organisation (e.g. cooperatives, telework etc.) and new patterns of work
- Building partnership programmes aimed at elaborating and implementing local employment initiatives. Development and implementation of job creation and job retention initiatives in the CBC region following the Territorial Employment Pacts’ approach
- Analysis of skill needs for the labour market
- Early identification of people at risk to move to LTU or inactivity
- Development of common databases
- Development of common web-sites
- Joint establishment of internet-based labour market services and support to spread them

**PHARE CBC Contribution:** € 3,200,000 (€ 1,600,000 in Hungary and € 1,600,000 in Slovenia)

**Projects 2003/004-381-02 and 2003/004-561-02 Joint Small Projects Grant Scheme**

The Joint Small Projects Grant Scheme (JSPGS) will be established to support local development activities of a cross-border nature by involving local actors from the border region.
The aims of the JSPGS are: to encourage and support the creation of sustainable co-operation networks between local and regional actors in the border region; to assist local organisations in developing capacities and capabilities to elaborate and implement projects within the border region and to develop common project implementation structures, unifying historically and culturally different regions. A “mirror” and equal fund will be available for each counterpart, being agreed unanimously by the Joint Co-operation Committee (JCC).

A JSPGS with a budget of up to 20 % of annual Phare CBC Programme funds is to be created. The Hungarian and Slovenian side agreed in the JPD to use the maximum Phare funds available for JSPGS purposes, that is € 800,000 (€ 400,000 for each country). Up to 7 % of the Phare contribution may be used for expenditures relating to the preparation, selection, appraisal and monitoring of the assistance.

The maximum size for an individual project is € 50,000. There is decentralised decision-making. Beneficiaries will have to provide a co-financing of a minimum of 10 % of the total cost of the project.

The Joint Small Projects Grant Scheme will facilitate contacts between people living in the border region and will support projects in all priority fields of the JPD such as Sustainable Spatial Development, Human Resources Development as well as Regional Cohesion and Economic Co-operation. As described in the Commission Regulation No 2760/98, as amended by Regulation No. 1596/2002, these kinds of actions have to involve local actors from the border regions creating mutual common benefits for both sides.

The JSPGS will be managed by the Implementing Authorities: the National Agency for Regional Development acting under the Prime Minister’s Office in Hungary and the National Agency for Regional Development acting under the Ministry of Economy in Slovenia. The tasks of the secretariat will be carried out on the Hungarian side by the Sopron regional office of NARD. On the Slovene side, NARD will ensure the necessary human resources for technical management of Joint Small Project Grant Scheme. The NARD may delegate particular tasks to the Secretariat of the Grant Scheme according to the PRAG rules.

**PHARE CBC Contribution:** € 800,000 (€ 400,000 in Hungary and € 400,000 in Slovenia)

2. Budget
The programme will have a duration of 3 years. The contracting period of the programme will expire on 30 November 2005. The disbursement period of the programme will expire on 30 November 2006. The following table specifies the EU contribution to the programme.

<table>
<thead>
<tr>
<th>Project Number</th>
<th>Priority/Project Title</th>
<th>Phare</th>
<th>TOTAL PHARE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Institution Building</td>
<td>Investment</td>
</tr>
<tr>
<td><strong>Slovenia</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Sub-programme 1</strong> (CRS CODE 16110)</td>
<td><strong>PRIORITY 02: Human Resources Development</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2003/004-381-01</td>
<td>Maximisation of human resources potentials in the border region</td>
<td>1,600,000</td>
<td>1,600,000</td>
</tr>
<tr>
<td><strong>Sub-programme 2</strong> (CRS CODE 15040)</td>
<td><strong>Joint Small Projects Grant Scheme</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2003/004-381-02</td>
<td>Joint Small Projects Grant Scheme</td>
<td>400,000</td>
<td>400,000</td>
</tr>
<tr>
<td><strong>Hungary</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Sub-programme 1</strong> (CRS CODE 16110)</td>
<td><strong>PRIORITY 02: Human Resources Development</strong></td>
<td></td>
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</tr>
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<td>2003/004-561-01</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>2003/004-561-02</td>
<td>Joint Small Projects Grant Scheme</td>
<td>400,000</td>
<td>400,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>800,000</strong></td>
<td><strong>3,200,000</strong></td>
</tr>
</tbody>
</table>

In accordance with the Phare Guidelines 2000-2006, as revised in 2002 [C(2002)3303-2], all investment projects supported by Phare must receive co-financing from national public funds.

Co-financing for Institution Building projects is provided by the beneficiary bearing certain infrastructure and operational implementation costs, through financing the human and other resources, required for effective and efficient absorption of PHARE assistance.
The Community contribution may amount to up to 75% of the total eligible public expenditure.

2.1. Conditionality

The Slovene authorities must confirm, by the date of the Phare Management Committee on 11th April 2003, that payments of custom duties, import duties, taxes or fiscal charges having equivalent effects will not be taken into account in the calculation of a Phare grant nor in the contribution from national public funds.

3. Implementation Arrangements

a.) Financial and Project Management by Candidate Country

- in Hungary:

The programme will be managed in accordance with the Phare Extended Decentralised Implementation System (EDIS) procedures as set down in the EDIS Accreditation Decision* and the Agreement on the Implementation of EDIS* (EDIS Implementation Agreement; EIA) concluded between Hungary and the Commission. Prior to the conclusion of said Agreement, implementation will exceptionally follow Phare Decentralised Implementation System (DIS) procedures4. Extended Decentralisation will, however, apply from the date of accession at the latest.

The National Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring 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 EDIS Implementation Agreement* and/or the DIS Manual as well as the other instructions of the Commission, and that all contracts required to implement the Financing Memorandum are awarded using the procedures and standard documents defined and most recently published by the European Commission for the implementation of External Actions.

The NAC and the NAO shall be jointly responsible for co-ordination between Phare (including Phare CBC), ISPA and SAPARD, as well as the Structural and Cohesion Funds.

The National Fund (NF) in the Hungarian 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

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2 Taxes are not an element eligible for co-financing

* working title


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

- in Slovenia

The programme will be managed in accordance with the Phare Extended Decentralised Implementation System (EDIS) procedures as set down in the EDIS Accreditation Decision* and the Agreement on the Implementation of EDIS* (EDIS Implementation Agreement; EIA) concluded between Slovenia and the Commission5. Prior to the conclusion of said Agreement, implementation will exceptionally follow Phare Decentralised Implementation System (DIS) procedures6. Extended Decentralisation will, however, apply from the date of accession at the latest.

The National Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring 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 EDIS Implementation Agreement* and/or the DIS Manual as well as the other instructions of the Commission, and that all contracts required to implement the Financing Memorandum are awarded using the procedures and standard documents defined and most recently published by the European Commission for the implementation of External Actions.

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

The National Fund (NF) in the Slovenian 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 full overall accountability for the PHARE funds of a programme until the closure of the programme.

b.) Project size

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* working title
The Hungarian and Slovenian side agreed in the JPD to use the maximum Phare funds available for JSPGS purposes, that is € 800,000 (€ 400,000 for each country).

The Maximisation of “Human Resources Potentials in the Border Region” Grant Scheme will be supported by the remaining available budget of € 3.2 million (€ 1.6 million for each country).

c.) Contracting and disbursement deadline; programming deadline

All contracts must be concluded by 30 November 2005. In no case can the contracting period exceed 3 years after the date of the global commitment.

All disbursements must be made by 30 November 2006. Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted.

d.) Clearance of Accounts Procedure and Recovery of Funds

A clearance–of-accounts procedure in line with Art. 53 para 5 of the Financial Regulation\textsuperscript{7} and Art. 42 of the Implementing Rules to the Financial Regulation\textsuperscript{8} will be put in place.

Any proven irregularity or fraud\textsuperscript{9} 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:

\textsuperscript{7} Council Regulation 1605/2002 of 25 June 2002
\textsuperscript{8} Commission Regulation 2342/2002 of 23 December 2002
\textsuperscript{9} As defined under number 8a (Audit and Anti-fraud Measures by the Candidate Countries) of this document
(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 the Republic of Hungary and the Commission and Republic of Slovenia in 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 Central Bank in Slovenia and in a Bank agreed in advance with the Commission in Hungary.

aa) Transfer of Funds to the National Fund

A first transfer of up to 20% of the funds to be managed locally, representing pre-financing will be sent to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts Unit (CFCU). The provisions foreseen in articles 2 and 13 of the MoU on the NF must also be met. Furthermore, the NAO must submit to the Commission the designation of the PAOs and a description of the system put in place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function will be carried out.

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10 All candidate countries signed the MoU for the establishment of the National Fund in December 1998.
11 as defined in Art. 81.1.b.i of the Financial Regulation
Two further transfers of up to 30% each of the funds to be managed locally will be made. The second transfer will be triggered when 5% of the budget has been disbursed by the IAs and the CFCU. The third transfer may be requested when 35% of the total budget in force has been disbursed. A fourth transfer will be made when 70% of the total budget in force is disbursed and when all expenditure has been incurred (i.e. fully contracted). No later than 2 months after expiry of the disbursement deadline the National Fund will submit a final declaration of expenditure, which will trigger a balancing operation of all transfers against final certified expenditure incurred, which at that point will be equal to payments made. (closure of expenditure)\textsuperscript{12}.

Exceptionally the NAO may request 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 interim payments 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.

Under DIS, each individual FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the CFCU/IA there will be no transfer of funds from the NF to the CFCU/IA. The CFCU and the IAs must each be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all the operations carried out by the relevant CFCU/IA.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period of the programme, the overall total of funds related to those contracts, as calculated by the PAO and established by the Commission, will be paid to the Implementing Agency before the official closure of the programme. The Implementing Agency assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses.

The Implementing Agency further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts - and notably of the payments made out of them - and of interests accrued will annually be provided by the NAO to the Commission.

cc.) Interest

\textsuperscript{12} as defined in Art.105 of the Implementing Rules
In principle, all bank accounts\(^\text{13}\) 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:

- In Slovenia, the CFCU is the Implementing Agency. Additionally, the following Ministry will play an important technical role:

<table>
<thead>
<tr>
<th>Sub-programmes and projects</th>
<th>Implementing Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003/004-381 CBC Slovenia-Hungary</td>
<td></td>
</tr>
<tr>
<td>2003/004-381-01 – Maximisation of human resources potentials in the border region</td>
<td>National Agency for Regional Development, Ministry of Economy</td>
</tr>
<tr>
<td>2003/004-381-02 – Joint Small Projects Grant Scheme</td>
<td>National Agency for Regional Development, Ministry of Economy</td>
</tr>
</tbody>
</table>

- In Hungary, the National Agency for Regional Development within the Prime Minister’s Office is the Implementing Agency. The Prime Minister’s Office will provide financing and technical support to the IA.

<table>
<thead>
<tr>
<th>Sub-programmes and projects</th>
<th>Implementing Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003/004-561 CBC Hungary-Slovenia</td>
<td></td>
</tr>
<tr>
<td>2003/004-561-01 – Maximisation of human resources potentials in the border region</td>
<td>Prime Minister’s Office</td>
</tr>
<tr>
<td>2003/004-561-02 – Joint Small Projects Grant Scheme</td>
<td>Prime Minister’s Office</td>
</tr>
</tbody>
</table>

g.) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive\(^\text{14}\) 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 documented\(^\text{15}\).

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\(^{13}\) in particular, but not exclusively, accounts run by the NF, the CFCU and IAs  
\(^{14}\) DIR 85/337/EEC; OJ L 175/40; 5.7.1985; as amended by DIR 97/11/EEC; OJ L 73/5; 14.3.1997  
\(^{15}\) in Annex EIA to the corresponding investment project fiche
If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive\textsuperscript{16} must be documented\textsuperscript{17}.

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

\textbf{Grant Schemes}

For Grant Schemes in the field of Economic and Social Cohesion 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.

- Prior to EDIS accreditation, the ex-ante approval of the Commission Delegation in Budapest and Ljubljana will be required, in conformity with the provisions of chapter 6 of the Practical Guide (decentralised ex-ante control).

- The implementation of selected projects through 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.

- Following a positive assessment of the Implementing Agency's capacity to operationally and financially manage the schemes in a sound and efficient manner (cf. Section 11 and Annex 4 of the 2003 PHARE Programming Guide), the Commission Delegation may decide to waive its ex-ante approval of sub-contracting carried out by final beneficiaries of individual grants. The detailed provisions governing the role of the Delegation in the above mentioned sub-contracting phase will be specified, as appropriate, in the exchange of letters between the Delegation and the National Authorities following the above mentioned assessment exercise.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{16} DIR 92/43/EEC; OJ 206/7; 22.7.1992
\item \textsuperscript{17} in \textit{Annex Nature Conservation} to the corresponding investment project fiche
\end{itemize}
\end{footnotesize}
• Grant schemes will not involve projects for which PHARE contribution is more than € 2 million and less than € 50,000. This lower limit may be waived as a result of the above-mentioned assessment of the Implementing Agency's capacity of giving assurance of sound financial management. This lower limit is not applicable in the case of NGOs.

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.

**CBC Small Projects Facility**

The Small Projects Fund will finance projects below € 50,000 (PHARE contribution). It will not include physical investments other than small infrastructure not generating substantial net revenue.

For the CBC Small Project Fund, up to 7% of the PHARE contribution may be used for expenditure relating to the preparation, selection, appraisal and monitoring of the assistance.

**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 (SMSC) which will include the NAC, the PAO of each Implementing Agency (and of the CFCU where applicable) and the Commission Services. The SMSC will review in detail the progress of each programme, including its components and contracts, assembled by the JMC into suitable monitoring sectors. Each sector will be supervised by one SMSC on the basis of regular monitoring reports produced by the Implementing Agency, and interim evaluations undertaken by independent evaluators. The SMSC will put forward recommendations on aspects of management and design, ensuring these are effected. The SMSC will report to the JMC, to which it will submit overall detailed opinions on all Phare financed programmes in its sector.

The Commission services shall ensure that an ex-post evaluation is carried out after completion of the Programme.
5.) Audit and Anti-Fraud Measures

a.) By the Candidate Countries\(^{18}\)

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 national or Community law\(^{19}\), this Financing Memorandum or ensuing contracts or 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\(^{20}\).

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 within two months following 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

\(^{18}\) in accordance with the rules set down in Art. 54 of the Financial Regulation

\(^{19}\) defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (for example the Europe Agreements, the Framework Agreement, the Memorandum of Understanding on the Establishment of the National Fund etc.).

\(^{20}\) OJ L 178; 12.7.94; p. 43-46
the Court of Auditors. This includes on-the-spot checks and, as long as the Extended
Decentralisation System is not yet applicable to the Implementing Agencies in the Candidate
Country concerned, measures such as ex-ante verification of tendering and contracting carried
out by the Delegation in the Candidate Country concerned.

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\textsuperscript{21}.

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 Slovenia and/or 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.

\textsuperscript{21} OJ L 292; 15.11.1996; p. 2-5