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: SI0106 to SI0107
Title: 2001 National Programme for Slovenia (part 2)
Duration: Until 15/12/2003

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 6,800,000 EUR hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 15/12/2003 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 15/12/2004. All

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

European Commission Delegation in Ljubljana
Trg Republike, 3, XI.,
1000 Ljubljana
SLOVENIA

Telegraphic address
Telex:
Fax: (386-1) 4252085

for THE RECIPIENT:

H.E. Mr Igor BAVCAR
Minister for European Affairs
Government Office for European Affairs
Phare National 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.
Encl.

1. Framework Agreement (Annexes A & B)
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)
ANNEX C - SPECIAL PROVISION

1. OBJECTIVES, DESCRIPTION AND CONDITIONALITY

The conclusions of the November 1998 Report of the Commission on the progress made by Slovenia towards the accession (“Regular Report”) stressed the slow pace of preparations, particularly in so far as (short-term) priority areas for reform in the Accession Partnership are concerned, and the limited progress made with regard to the necessary reinforcement of the institutional and administrative capacity of the country.

However significant progress has been made since the first progress report was issued. The Regular Reports in 1999 and 2000 indicated that Slovenia had accelerated its overall legislative approximation effort and demonstrated impressive progress across most sectors of the acquis. Furthermore, they indicated, that Slovenia:

° fulfils the Copenhagen political criteria
° can be regarded as a functioning market economy
° has maintained economic stability
° followed a gradual approach to structural reform, and,
° had met most of its short term Accession Partnership priorities.

All efforts will be made to maintain this positive trend and meet medium and remaining short-term priorities of the Accession Partnership.

The 2001 Programme, Part 2, will in this context focus on two objectives:

Objective 1: To support Economic and Social Cohesion.

Project 1  Strengthening Slovenia at the Local Level (Grant scheme)  (SI0106.01)

The project takes the form of a grant scheme and covers two sectors of importance for local development:

° in the field of human resource development, the project will address the stimulation of human resource development, with the aim of increasing the employability of unemployed persons and employed persons in sectors facing restructuring. Eligible projects are training to be provided to HRD staff in regions, enterprises and educational institutions on HRD planning and implementation, short regular and other training programmes enabling the unemployed and employed persons from sectors facing restructuring with an aim to providing vocational or technical education titles. The size of the Phare contribution to each project lies between € 50,000 and € 200,000.

° in the field of the physical environment, projects will cover waste water treatment and/or water supply and will be chosen for their contribution to increasing the attractiveness of the
areas concerned for enterprise development and improving services to the local community. The size of the Phare contribution to each project lies between € 50,000 and € 300,000. The projects will be chosen on the basis of selection criteria and to help specific areas that can benefit in an integrated way from the combination of efforts under the scheme. This will provide experience in the organisation and delivery of Structural Funds type assistance. The two areas chosen represent important pillars of EU policies and constitute substantial elements of the acquis: Employment and the National Employment Plans and in the area of the Environment in relation to the comprehensive Water and Waste Water Treatment Directives.

Within the programming to be initiated for the purpose of implementing the NDP (National Development Plan), a series of measures and sub-measures address the problems of human resources and the environment, under the responsibility of the relevant Ministries. These Ministries (Labour, Family and Social Affairs; Education, Science and Sports, Environment and Spatial Planning; Economy) have agreed to earmark part of their allocations to provide national co-financing to be associated with the Phare funds and local contributions provided by the project beneficiaries, thus producing a significant leverage effect from the Phare contribution and its conditioning by respect of Community policies.

The overall grant scheme will be drawn up and managed by the National Agency for Regional Development inside the Ministry of the Economy. The NARD will be the Implementing Authority for the project. The CFCU in the Ministry of Finance is the Implementing Agency.

The project will be established as a grant scheme according to the practical guide for Phare, ISPA and SAPARD, and in line with the Phare Programming Guide of 2001. This financing scheme is designed as a bridging mechanism from Phare to the mechanisms of the Structural Funds.

**Conditionalities**

° Final version of the National Development Plan to be presented by 30th September 2001 will contain a clear link to the two sub-measures financed within the framework of this grant scheme.

**Objective 2: Assist Slovenia in the field of Justice and Home Affairs**

**Project 1 State Border Control (SI0107.01)**

The land border with Croatia, the future external border of the EU, is 670 km. long. There are 36 border crossings, out of which 24 crossings are for international transport. In 1991 temporary constructions were installed – containers for the police, customs and in some places for inspections. This provisional infrastructure is of poor quality and does not meet neither basic conditions imposed by workplace health and safety legislation nor the Schengen criteria.

The crossing at Obrezje is to be the main land border crossing with Croatia and with Component 1 of the project will be equipped with complete veterinary and phytosanitary facilities. This will allow proper inspections in line with EU norms and standards and allow the Slovene authorities to carry out physical checks according to Council Directive 97/78 Annex III and the Commission Decision 93/13 Annex C (concerning the waste of dead animals or animal products under temperature control)
A Government Decision of 9th April 1998 designated three border crossing posts in Metlika, Rogatec and Slovenska Vas as international border crossings. These BIPs are already equipped with the necessary computer hardware and software to enable them to operate after the implementation of Schengen. Component 2 of the present project will provide for construction and improvement of infrastructure telecommunications, sewage system, electricity, parking and ancillary premises for police and customs.

The Slovene authorities will provide very considerable financial support (€ 36,555,000) to all other infrastructures and ancillary buildings needed at the four crossing posts.

**Conditionalities**

° The Government of Slovenia with the National Plan on financing the construction of border posts, commits itself to provide the necessary funds for the construction of the border control posts from the national Budget in the years 1999-2004.

° The design and works tender dossier for veterinary and phytosanitary facilities in Obrezje will have been finalised by September 2001.

° The acquisition of land for the construction of Obrezje BIP will have been finalised by September 2001; the building permit will be finalised by November 2001.

° If the tenders will not have been launched by June 2002, the use of funds will be re-assessed.

**General Conditionality**

All investment projects which, according to the rules stipulated in Directive 85/337/CEE, as amended by Directive 97/11, require an Environmental Impact Assessment, should be the subject of an Environmental Impact Assessment. If the Directive has not yet been fully transposed, the procedure should be similar to that established by the above-mentioned directive.

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.

2. **BUDGET**

The following table specifies the EU contribution to the Programme:

<table>
<thead>
<tr>
<th>Sub-programme and Projects</th>
<th>PHARE Budget</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>INV</td>
<td>IB</td>
</tr>
<tr>
<td>SI0106 Economic and Social Cohesion</td>
<td>3,500,000</td>
<td>0</td>
</tr>
<tr>
<td>SI0106.01 Strengthening Slovenia on the Local Level</td>
<td>3,500,000</td>
<td>0</td>
</tr>
<tr>
<td>SI0107 Justice and Home Affairs</td>
<td>3,300,000</td>
<td>0</td>
</tr>
<tr>
<td>SI0107.01 State Border Control on the future external border of the EU</td>
<td>3,300,000</td>
<td>0</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Total</td>
<td>6,800,000</td>
<td>0</td>
</tr>
</tbody>
</table>
3. IMPLEMENTATION ARRANGEMENTS

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures. The National Aid Co-ordinator (NAC) will have overall responsibility for the programming, monitoring and implementation of Phare programmes. The National Aid Co-ordinator and the National Authorising Officer shall be jointly responsible for co-ordination between PHARE (including PHARE CBC), ISPA and SAPARD.

The National Fund (NF) in the Ministry of Finance, headed by the National Authorising Officer (NAO), will supervise the financial management of the Programme and will be responsible for reporting to the European Commission. The National Authorising Officer shall have overall responsibility for financial management of the PHARE funds. S/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 proper reporting and project information system is functioning. The National Authorising Officer shall have the full overall accountability for the PHARE funds of a programme until the closure of the Programme.

Appropriate financial control shall be carried out by the competent National Control Authority with respect to the implementation of the Programme.

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Government of Slovenia on 23rd December 1998. Funds will be transferred following requests from the NAO.

A payment of up to 20% of the funds to be managed locally will be transferred to the NF following signature of the Financing Memorandum and the Financing Agreement (FA) between the NF and the 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 PAO 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.

Four replenishments will be made of up to 20% of the funds 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 Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the IA 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 Central Finance and Contracts Unit, in accordance with the Financing Agreement signed between the NF and the CFCU. The FA will be endorsed in advance by the European Commission. In case where the NF is itself the paying agent for the CFCU, there will be no transfer of funds from the NF to the CFCU. The CFCU must be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all operations carried out by the CFCU.
All projects will be administered via the CFCU.

Appropriate financial control shall be carried out by the national Financial Control Authority. The National Authorising Officer shall maintain a financial reporting system for PHARE funds.

Additionally, the following ministries and institutions will play an important technical role.

**Economic and Social Cohesion**

National Agency for Regional Development, Ministry of the Economy.

Ministry of Labour, Family and Social Affairs

Ministry of Education, Science and Sports

Ministry of Environment and Spatial Planning

**Justice and Home Affairs**

Ministry of the Interior

Joint Services of the Government

Veterinary Administration

Inspectorate for Agriculture, Forestry, Hunting and Fisheries within the Ministry of Agriculture, Food and Forestry.

A separate bank account, denominated in € will be opened and managed by the NF in a separate accounting system in the Central Bank. 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 be applied to any funds transferred to the CFCU.

The NAO and PAO will ensure that all contracts are to be prepared in accordance with the procedures set out in the DIS.

Considering the small size of the national Phare allocation for Slovenia and the significant/large national co-financing involved, the motive for the fixing of a minimum € 2 million size for investment projects is considered to have been respected in the project design.

The grant scheme "Strengthening Slovenia at the local level" will be co-financed with a € 3.5 million Phare contribution out of a national programme allocation for 2001 of € 21.3 million. The amount is relatively low because it is recognised that the project has a strong pilot-project character and that a larger contribution is unnecessary also because of the high rate of national co-financing. There will be two components, one finances an ESF-type measure and the other an ERDF-type measure:

- the first for an amount of € 1,925,000 concerns social inclusion and the contracting authority will be the Ministry of Labour, Family and Social Affairs;

- the second for an amount of € 1,575,000 concerns local infrastructure and the contracting authority will be the Ministry of the Economy.
It may be noted that this project has a strong Institution Building component.

The project State border control on the future external border of the EU has a Phare contribution of € 3.3 million and is divided into two equal components of € 1,650,000 which fall underneath the € 2 million investment project size.

The first concerns the construction of Veterinary and Phytosanitary Facilities at the intended future main external border crossing with Croatia at Obrezje. The national co-financing for what is a major construction project is € 35.7 million.

The second concerns the construction of three border crossings along the border with Croatia. The national co-financing is € 855,000.

All contracts must be concluded by 15th December 2003.

All disbursements must be made by 15th December 2004.

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 the 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 for depositing the funds until final payment is due and 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 will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after the 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 be provided by the NAO to the Commission.

4. MONITORING AND ASSESSMENT

A Joint Monitoring Committee (JMC) has been established. It includes the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in Financing memoranda and/or the re-allocation of Phare funds.

The JMC will be assisted by 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 consultants (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring that these are effected. The MSC will report to the JMC, to which it will submit overall detailed reports on all Phare financed programmes.
5. ANTI-FRAUD MEASURES, AUDIT AND EVALUATION

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 the Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned and on-the-spot checks.

In order to ensure efficient protection of the financial interests of the Community, the Commission can conduct check-ups and inspections on site in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96 dated from November 11, 1996, concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.

The procedures foreseen in Art. 15 para 3 of Commission Regulation No. 2222/2000 dated from June 7, 2000, on the communication in case of irregularities and the putting in place of a system to administrate the information in this field shall apply.

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

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

6. VISIBILITY AND PUBLICITY

The appropriate Programming Authorising Officer will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all the activities financed from the Programme. This will be done in close liaison with the Commission Delegation. Further details are at the Annex 3 - Visibility and Publicity.

7. SPECIAL CONDITIONS

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