

Enforcement of the Internal Market Acquis
Standard Summary Project Fiche
Project Number LI 9907.01

1. Title

Strengthening Enforcement of Competition Policy

2. Geographical Location

State Competition and Consumer Protection Office (SCCPO)

3. Objectives

The wider objective of this **0.75 MEUR Project** is to:

- Support Lithuania's enforcement of a transparent competition policy, achieving, by the end of this Project, compatibility with EC requirements. In particular this requires the further strengthening of the enforcement, monitoring and reporting capacities of SCCPO in the area of state aid, although within the wider context of strengthening capacities covering the whole competition policy field, including on undertakings, dumping, mergers, state monopolies etc..

Phare support will be delivered via a **Twinning and Training Package** focused on achieving:

- Completion of the approximation of legislation, including preparation of secondary legislation,
- Further strengthening the institutional capacity, structures and procedures of SCCPO, to monitor and regulate the competition field, to be based on a medium-term institution building plan, presently being drafted by the beneficiary with the support of on-going Phare assistance,
- Extensive staff training for SCCPO staff, plus, in the context of a broad awareness-raising campaign, key target audiences in the public sector, judiciary and economic and social partners,
- Strengthening the institutional capacity of SCCPO for the improved utilisation of informatics, in particular covering the collection, storing and processing of information, plus limited documentation procurement.

4. Institutional Framework

The Project will be co-ordinated by the State Competition and Consumer Protection Office (SCCPO), under the guidance of the Deputy Director (Dr. Gendrikas Stukas) supporting the: State Aid Monitoring Division, Competition Policy Division and Consumer Protection Division.

SCCPO has been in existence since 1993 and is responsible for supervision of the Law on Prices (1990), the Law on Competition (1992), the Law on Consumer Protection (1994) and the Law on Antidumping (1998). State aid control is executed according to the Government Decree No. 137 of 18 February 1997. The main activities of SCCPO extend to all forms of business, including activities in both the public and private sectors.

SCCPO consists 35 executive staff, of whom 24 work on competition, 5 on state aid and 6 on consumer protection. It is requested, under the 2000 State Budget, that an additional 10 executive staff join SCCPO, an extra 5 to work on state aid policy and 5 on anti-dumping policy.

In the specific area of state aid, the State Aid Monitoring Division was established within SCCPO in April 1997. Lithuania still needs to improve its state aid monitoring system, enabling the monitoring authority to receive full information on state aid prior to its granting. Particular efforts are needed in the field of establishing a comprehensive and up-dated state aid inventory. The legal framework for the granting of state aid needs further alignment to EC law, in particular to ensure

that the competent state authority is competent to control existing and future aid measures on a systematic basis.

In the specific area of consumer protection, responsibility is shared primarily between SCCPO (economic interests of consumers) and the Ministry of Health (health and safety questions), while limited functions rest with the Ministry of Economy and the Ministry of Culture. Enforcement of consumer protection under SCCPO's jurisdiction is provided by the Quality Control Office, while the State Hygiene Inspection enforces consumer protection under the Ministry of Health.

In the broad area of competition policy, significant institutional changes at SCCPO are anticipated as a result of the new Law on Competition, which was adopted by Seimas on 23 March 1999. This Law foresees the establishment of a Competition Council, into which the existing SCCPO will be re-organised, for which specific, detailed structures and management procedures need to be elaborated and established. It is foreseen, at the initial stage, that the Competition Council and its management will take over all functions of SCCPO and staff (see Annex 4 for SCCPO's Organigramme), including the monitoring of state aid, anti-dumping and unfair competition (consumer protection).

The Competition Council will be a state institution of the Republic of Lithuania, implementing state competition policy and enforcement of the Law on Competition. At an executive level, the Competition Council will be headed by an Advisory Board comprising a Chairperson and 4 members.

The Chairperson of the Competition Council and members will be appointed by the President of the Republic of Lithuania according to the proposal of the Prime Minister. The Chairperson of the Competition Council will be appointed for five years, members of the Competition Council will be appointed for six years. The members of the Advisory Board will only work at the Competition Council. Operational procedures of the Competition Council and rules regulating the process of the investigation of cases will be defined in the Work.

5. Description

This **0.75 MEUR Project** will be contracted as a single **Twinning and Training Package to Strengthen Enforcement of Competition Policy**.

In the broad area of competition policy Lithuania's main short-to-medium-term targets are directly related to the implementation of the Law on Competition, adopted by Seimas in March 1999, in particular the necessity to re-organise SCCPO into the Competition Council, to issue a number of accompanying regulations and to establish operational procedures and rules in order to transparently promote and regulate fair competition.

In so doing it is important to ensure that Lithuania complies with its obligations under the Association Agreement to ensure the application of a competition policy regime between Lithuania and the EU based on the criteria established in the EC Treaty: Articles 31 (state monopolies), 81 (agreements between undertakings), 82 (abuse of undertakings), 86 (public undertakings and undertakings with special and exclusive rights), 87 (state aid).

Particular attention must be paid to state aid monitoring, which is identified in the European Commission's *Opinion on Lithuania's Application for Membership of the European Union*, as one of the fields which must be reinforced by extending institutional capacity and the building-up of new institutions, investing in them adequate financial resources:

“substantial training and other kinds of assistance will be needed in the future for the Monitoring Authority to carry out a credible control of state aid” ...

“as regards state aid, the required transparency is still lacking and an aid inventory covering all measures granted by the State, regional or local authorities or through state

resources, should be established as a matter of priority. A considerable effort will be necessary to fulfil the requirements as regards transparency over the medium term ...”.

As it is stated in the Commission's 1998 *Regular Report on Lithuania's Progress Towards Accession*, state aid control clearly remains a problem. Efforts to create full transparency in the granting of state aid should be pursued in order to establish further alignment with EC law. The necessary powers and procedures must be adopted to allow the State Aid Monitoring Authority to control existing and future aid measures on a systematic basis.

The Twinning and Training Package financed under this Project will build on the on-going support being provided to SCCPO under the Phare project “Support to European Integration in Lithuania” (LI 9701-02). This on-going Phare project supports SCCPO in the area of legal approximation, including the preparation of priority secondary regulations, and in the preparation of a medium-term institutional strengthening/strategic development action plan. It is expected that this plan (which will form the basis for negotiations on the twinning covenant) will be finalised during autumn 1999.

As an indication of the medium-term priorities of SCCPO, the following actions are already foreseen, to be supported initially under the on-going 1997 Phare project, followed-up by support under the Twinning and Training Package.

In the broad area of competition policy, the following accompanying regulations are foreseen for completion in 1999-2001, to ensure efficient implementation of the new Law on Competition:

- Statute of the Competition Council (1999),
- Statute of the Management of the Competition Council (1999),
- Resolution of the Competition Council on calculation of aggregate incomes in notifications on concentration (1999),
- Resolution of the Competition Council on typical notification forms on concentration (1999),
- Resolution of the Competition Council on granting general exemptions to vertical restrictive agreements pursuant to Article 7 of the new Law on Competition (1999),
- Resolution of the Competition Council on the form content and other details of applications and notifications pursuant to Articles 7, 8 and 25 of the new Law on Competition (1999-2000),
- Resolution of the Competition Council on Rules of Procedure (1999-2000),
- Resolution of the Competition Council on granting exemptions to transport by rail, road and inland waterway pursuant to Article 7 of the new Law on Competition (1999-2000),
- Resolution of the Competition Council on granting exemptions to the air transport sector pursuant to Article 7 of the new Law on Competition (1999-2000),
- Resolution of the Competition Council on granting exemptions to the maritime transport pursuant to Article 7 of the new Law on Competition (1999-2000),
- Resolution of the Competition Council on granting exemptions to motor vehicle distribution and servicing agreements pursuant to Article 7 of the new Law on Competition (2000),
- Resolution of the Competition Council on granting general exemption to certain categories of technology transfer agreements pursuant to Article 7 of the new Law on Competition (2000),
- Resolution of the Competition Council on granting general exemptions to research and development agreements pursuant to Article 7 of the new Law on Competition (2000-2001),
- Resolution of the Competition Council on granting general exemptions to specialisation agreements pursuant to Article 7 of the new Law on Competition (2000-2001),

- Resolution of the Competition Council on granting general exemption to certain categories of agreements, decisions and concerted practices in the insurance sector pursuant to Article 7 of the new Law on Competition (2000-2001),
- Resolution of the Competition Council on granting an exemption to production and trade in agricultural products pursuant to Article 7 of the new Law on Competition (2001).

In the specific field of state aid, the State Aid Monitoring Authority is in the process of establishing its framework of procedures and structures and has to date only received limited support, primarily from TAIEX, to strengthen its operations.

The main short-to-medium-term targets in the field of state aid are to establish a comprehensive state aid inventory, embracing all forms of state aid, and to further develop transparent structures and procedures for the notification of and reporting on state aid, requiring the preparation of necessary legislation, including draft Law on State Aid (2000) and the following secondary regulations and detailed procedural rules:

- Procedural Rules for Preparation of the Annual State Aid Inventory (1999),
- Resolution of the Competition Council on State Aid for Research and Development (2000),
- Resolution of the Competition Council on State Aid for Environmental protection (2000),
- Resolution of the Competition Council on State Aid for Rescuing and Restructuring (2000),
- Resolution of the Competition Council on State Aid to employment and reduction of labour costs (2000),
- Resolution of the Competition Council on Regional State Aid (2000),
- Resolution of the Competition Council on Aid for training (2000),
- Resolution of the Competition Council on State Aid for undertakings in deprived urban areas (2001),
- Resolution of the Competition Council on Regional Aid for large investment (2001),
- Resolution of the Competition Council on State Aid to the synthetic fibres industry (2001).

In the specific field of consumer protection as covered by SCCPO, the major emphasis over the short-to-medium-term is on raising awareness of both consumers and business as to both general and sector specific rights and interests of different actors. This will need to be implemented within the wider context of the Commission's Consumer Policy Action Plan, 1999-2001.

The Twinning and Training Package, building on the on-going activities under the LI 9701-02 project, will therefore assist SCCPO with:

- The review and, as necessary, revision of the institution building action plan elaborated under the LI 9701-02 project,
- Support with the interpretation of EC legislative requirements and related ECJ judgements in SCCPO's areas of competence, as the basis for the detailed preparation of remaining legal approximation measures, including secondary legislation and enforcement guidelines, in order to ensure full compliance with the *acquis* by the end of the Project,
- Support implementation of the detailed medium-term plan for strengthening SCCPO's operations, structures and procedures, including the establishment of effective and transparent monitoring instruments and the strengthening of SCCPO's internal information management, including software development, to support the fulfilment of reporting requirements,
- The provision of policy advice to SCCPO and elaboration of an action plan for a broad awareness-raising campaign, focused on enhancing familiarity with and acceptance by key

groups (public sector, judiciary, economic and social partners, broad public) of the changing legal/procedural environment for competition policy,

- The development and implementation of an extensive training programme, implemented in the context of the awareness-raising campaign. This will entail the detailed assessment of training and information needs, followed by the elaboration of suitable actions to be undertaken (based on ‘training-of-trainers’ course modules, distance-learning, fellowships to EU Member State(s) etc.), particularly focused on:
 - SCCPO staff, in particular ensuring that investigation, enforcement and reporting methodologies are in compliance with EC rules, including the provision of fellowships for a minimum of 12 staff (5 state aid, 7 competition policy) to EU Member State(s),
 - the wider public sector,
 - the judiciary,
 - economic and social partners.

This necessitates that the Twinning and Training Package therefore comprise the following services:

- A 1 year PAA, to provide strategic and operational advice to SCCPO regarding enforcement of the *acquis* in the specific area of state aid, with a particular emphasis on strengthening SCCPO’s institutional, procedural, management and reporting capacity in this area, although the PAA should also be in a position to provide broad guidance in the wider field of institution capacity building. The PAA, who should be fluent in the English language, will also be responsible for co-ordinating the series of short-term expert inputs,
- A series of short-to-medium-term EU experts (approximately 25 person-months), who should all be fluent in the English language, to provide specialist advisory and training inputs in a range of sectors covered by broad competition policy: e.g. legal approximation, enforcement structures and procedural methodology, information management including software development and information provision, human resource development etc.,
- Other services, primarily for the purposes of interpretation, translation of texts, the development of computer/information systems, provision of documentation etc..

6. Budget (in million EUR)

Project	Investment	Institution Building	Total Phare (= I + IB)	Recipient	IFI	TOTAL
	DIS	DIS				
Twinning and Training Package to Strengthen Enforcement of Competition Policy		0.75	0.75	0.1		0.85
TOTAL		0.75	0.75	0.1		0.85

7. Implementation Arrangements

The CFCU is the Implementing Agency responsible for tendering, contracting and accounting. Responsibility for technical preparation and control will remain with beneficiary: SCCPO.

It is planned to sign one contract: a twinning agreement.

8. Implementation Schedule

Start of twinning arrangements: 2Q/00

Completion: 2Q/01

9. Equal opportunity

The institutions involved in the project execution will observe equal opportunity of men and women in its recruitment and human resources development. The beneficiary will ensure equal access of men and women to the project activities and results.

10. Environment

N/A

11. Rates of Return

N/A

12. Investment Criteria

N/A

13. Conditionality and Sequencing

Conditionality: (a) adoption of a Law on State Aids; (b) appropriate allocation of human resources to the Competition Council, notably as regards monitoring of state aids.

The beneficiary, SCCPO, will provide the team of experts with necessary facilities and counter-part support for implementing the Project.

The results of the medium-term institutional strengthening/strategic development action plan which is due to be finalised in autumn 1999 (financed from the 1997 national Phare programme – LI 9701.02) shall be taken into account.

Strengthening Enforcement of Competition Policy	Project Number: LI 9907.01	Date of Drafting: 04/99	
	Contracting Period Expires: 31/10/2001	Disbursement Period Expires: 31/10/2002	
	Total Budget: 0.85 MEUR	Phare Contribution: 0.75 MEUR	
Wider Objectives	Indicators of Achievement	Sources of Information	Assumptions and Risks
To help Lithuania create modern, workable and EU compatible legislative framework and institutional structures, capable to enforce new legislation in the field of competition, state aid and consumer protection	New legislation and institutional structures in the field of competition, state aid and consumer protection	Publications on legislation and institutional scheme	Progress made in adoption of law on State Aids
Immediate Objectives	Indicators of Achievement	Sources of Information	Assumptions and Risks
<ul style="list-style-type: none"> - Further alignment and effective enforcement of competition law - Reinforcement of competition authority - Effective enforcement of state aid control - Alignment with acquis in the field of consumer protection 	<ul style="list-style-type: none"> - Regulations and guidelines on the new legislation - Modern, workable and EU compatible - Competition Institution - Transparency of state aids - EU compatible consumer protection legislation 	<ul style="list-style-type: none"> - Publications of regulations/guidelines - Highly qualified staff - Date base, publications of regulations/guidelines and periodic reports on state aid - Publication of legislation 	No specific risks have been identified
Outputs	Indicators of Achievement	Sources of Information	Assumptions and Risks
<ul style="list-style-type: none"> - Competition authority strengthened - A number of laws/ regulations and guidelines which fulfils Lithuanian obligations according to the priorities identified in the Accession Partnership and the National Programme for the Adoption of the Acquis - Published documentation regarding the content of the Lithuanian and the EU laws/regulations - Modernised state aid register - Elaborated program for consumers information and education 	<ul style="list-style-type: none"> - SCCPO staffed, equipped, legislation drafted, working methods and managing practise improved, comprehensive soft-ware and web page developed - Laws/regulations adopted and published, guidelines published - Publications - Special soft-ware for cumulating of data base on state aid register - Publications for consumers 	Project reports supported by independent assessments	The project is based on the assumption that approximation to EU remains a high priority of the Lithuanian government and that there is necessary political support to introduce all the required elements of this project
Inputs			
<ul style="list-style-type: none"> - PAA and short-term external experts (lawyers and practitioners from various Member States) - Translation/interpretation, software development etc. 	Evidence of trained staff and delivery of the specified inputs	Project reports and time sheets	Assumed project tendering and contracting proceeds smoothly according to the established procedures

Cumulative Contracting and Disbursement Schedule for the Project (MEUR)

Annex 2 a)

LI 99xx (B).01

Cumulative Quarterly Contracting Schedule (MEUR)

Project	4Q/99	1Q/00	2Q/00	3Q/00	4Q/00	1Q/01	2Q/01	3Q/01	4Q/01	1Q/02	2Q/02	3Q/02	Total
Strengthening Enforcement of Competition Policy			0.75						-----	-----	-----	-----	0.75

Cumulative Quarterly Disbursement Schedule (MEUR)

Project	4Q/99	1Q/00	2Q/00	3Q/00	4Q/00	1Q/01	2Q/01	3Q/01	4Q/01	1Q/02	2Q/02	3Q/02	Total
Strengthening Enforcement of Competition Policy			0.05	0.25	0.4	0.6	0.75						0.75

**Relation of the Project with Previous Phare Activities
and On-Going Projects Financed from Other Sources
LI 9907.01**

Annex 3

The Project is a continuation of previous and on-going Phare assistance projects to SCCPO.

A Project of Technical Assistance in the Field of Competition from Phare funds of 1995 (European Integration Facility LI 9504-03) was completed in December 1998. It served mainly to support activities related to the adoption of the new Law on Competition. The assistance covered preparation of drafts for a Statute and Working Regulations for the new Competition Council and the Competition Council's Office, plus training and information activities.

On-going Phare assistance project is carried out under the Phare project "Support to European Integration in Lithuania" (LI 9701-02). This on-going Phare project supports SCCPO in the area of legal approximation and in the preparation of a medium-term institutional strengthening/strategic development action plan and will be finalised during autumn 1999.

The Project is also related to the Danish bi-lateral assistance project (FEU Programme) "The Development and Introduction of Block Exemption Regulations". The project began in November 1998 and will continue until September 1999.

