

## **ADDENDUM TO FINANCING MEMORANDUM**

Within the Framework of Phare assistance to **Lithuania**, the addendum outlined below has been made under the **1999** budget of the '**Project Preparation Facility programme**.'

### **Article 1 – Nature and Subject**

The Financing Memorandum **LI9917** is modified in accordance with the Implementation Arrangements provided in the Annex.

### **Article 2**

All other Terms and Conditions of the Financing Memorandum **LI9917** remain unchanged.

### **Article 3 – Number of Copies**

This Addendum to the Memorandum is drawn up in duplicate in the English language.

### **Article 4 – Entry into Force**

This Addendum to Financing Memorandum **LI9917** shall enter into force on the date that it has been signed by both parties.

Done at Vilnius,  
Date

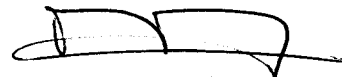
The RECIPIENT



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Done at Vilnius,  
Date 29 / 8 / 2001

For THE COMMUNITY



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Annex: Special Provisions

# ANNEX C - SPECIAL PROVISION

## 1. OBJECTIVES AND DESCRIPTION

### 1.1. Objectives

The overall objective of this Financing Proposal is to assist in the efficient start up and implementation of the Phare investment support projects for 2000 and 2001 and later years.

The specific objective of this Financing Proposal is to ensure that the necessary technical and implementation documents are prepared for those projects which are lead candidates for Phare support in 2000 and 2001 and later years, thereby facilitating their speedy and successful implementation.

### 1.2. Eligible Project Preparation Expenditure

The following technical and implementation documents may be prepared for the target investment projects for economic and social cohesion as identified in the manner described in 4.3 below:

- (1) Feasibility studies. This work may include: (i) preparing a feasibility study; or, (ii) completing a feasibility study; or, (iii) further developing an existing study to a level required to permit a decision on its financing to be made. In this last regard, such work may include inter alia:
  - (a) Cost benefit or financial analyses
  - (b) Analysis of user charging systems
  - (c) Pre-investment studies including cost and financial engineering work.
- (2) Detailed technical designs and bills of quantity (ie. any part of required documentation specified in FIDIC yellow, orange or red books for works, supplies or mixed contracts)
- (3) Preparation activities for aid schemes, including market demand, project pipeline and due diligence analyses.
- (4) Procurement plans and tender documentation
- (5) Environmental impact assessments to meet the requirement of European Community EIA legislation.

### 1.3. Project Selection

Once the NDP's and "Proposals for Phare Support in 2000" are received by the Commission, the process of selecting projects for preparation under this facility shall be started.

The National Aid Coordinator (NAC) of each country will propose to the Commission a list projects to receive support under this project preparation facility. The NAC's proposal will include a summary description of the preparatory support required by each of the target projects. These summary descriptions will be developed into full TOR's by the relevant beneficiaries on the basis of standard terms of reference for the nine activities identified above. Certain countries CBC programmes already have adequate preparation support facilities and, in such cases, the programming authority will clarify with the NAC concerned whether such projects can be considered or not.

Given the close linkage to programming, Commission delegation and headquarters shall be closely involved in discussing and refining this list before its formal submission.

Some Phare investment projects which lie outside of economic and social cohesion may also require preparation (eg. border crossing improvements, transit facilities, etc). Such projects are an intrinsic part of promoting economic and social cohesion. On an exceptional basis such projects may be proposed for Commission consideration under the facility.

Given that the NDP's have yet to be provided to the Commission, the selection of projects for preparation under this facility will take place after the approval of this Financing Proposal. To ensure prudent management of the facility, no project will be prepared under this facility unless it fulfills the following eligibility criteria:

- (1) The project is derived from the NDP and clearly matches the priorities set in the strategy.
- (2) It is included in the NAC's proposal for projects to be prepared, as referred to above.
- (3) The Commission (Delegation and Headquarters) agrees that the project is a lead candidate for programme under Phare in 2000 or 2001 or later years.
- (4) Draft terms of reference are available which provides a clear and comprehensive description of the project itself and of the preparatory tasks required to take the project into procurement and implementation.

National Programmes in 2000 and in 2001 and later years will also provide additional funds for project preparation and for adequate supervision if so required, noting that generally up to 5% of project costs are put aside for such activities (outside of administration costs).

This facility is targeted on assisting the countries to prepare projects. It will not be used to cover the administration or supervision costs of projects (eg. appraisal, tendering, etc).

It should be noted that the various strategies (National Development Plans included) and most of the projects which will be financed by Phare are being prepared at the cost of the countries themselves.

## 2. BUDGET

Euro million

Country	Code	Allocation	Investment	Institution Building	TA
Bulgaria	BG.99.19	2,5	0,00	0,00	2,5
Czech	CZ.99.16	2	0,00	0,00	2
Estonia	ES.99.12	2	0,00	0,00	2
Hungary	HU.99.18	2,5	0,00	0,00	2,5
Latvia	LE.99.14	2	0,00	0,00	2
Lithuania	LI.99.17	2	0,00	0,00	2
Poland	PL.99.18	4,5	0,00	0,00	4,5
Romania	RO.99.15	3,5	0,00	0,00	3,5
Slovakia	SR.99.20	2	0,00	0,00	2
Slovenia	SL.99.14	2	0,00	0,00	2
TOTAL		25	0,00	0,00	25
		100%	0%	0%	100%

Project preparation is generally estimated to account for 5% of total costs on complex investment projects. On current working assumption that such investment projects in support of economic and social cohesion will represent some 30-50% of the Phare budget, depending on the country concerned, the above facility can cover about half of project preparation needs in 2000. The remainder will be covered by the candidate countries themselves. Depending on the country concerned and the types of projects being developed from the National Development Plans, further preparation support may be provided under Phare National Programmes from 2000 or later years.

## 3. IMPLEMENTATION ARRANGEMENTS

While this Financing Proposal is presented to the Management Committee as a horizontal facility, the projects shall be implemented through the Phare national programme structures.

As such, this Financing Proposal will be split on a project by project basis by signing 10 separate Financing Memoranda, as set out in the following table, thereby allowing an optimal follow up in each individual country and a maximum efficiency in project implementation.

### 3.1. Implementation through National Programmes

### 3.2. Implementation

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures. The National Aid Coordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes.

The National Fund (NF) in the relevant Ministry (as indicated in the table below) 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 National Fund (NF) in each of the countries respectively is as follows:

1. Bulgaria - Ministry of Finance
2. Czech Republic – Ministry of Finance
3. Estonia – Ministry of Finance
4. Hungary - State Treasury
5. Latvia – Ministry of Finance
6. Lithuania - Ministry of Finance
7. Poland - Ministry of Finance
8. Romania – Ministry of Finance
9. Slovakia – Ministry of Finance
10. Slovenia – Ministry of Finance

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the relevant countries. 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 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.

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 IAs and 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.

IAs will be responsible for sub-programmes will be the CFCUs in each country.

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. 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.

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 apply to any funds transferred to an IA or the CFCU.

The NAO and the PAOs will ensure that all contracts are prepared in accordance with the procedures set out in the DIS Manual. Contracts will generally be lower than € 2 million as they are preparatory technical assistance. The investment projects that they prepare will meet the € 2 million criteria.

All contracts must be concluded by 31.12.2001. All disbursements must be made by 31.12.2002.

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.

#### **4. MONITORING AND ASSESSMENT**

A Joint Monitoring Committee (JMC) will be established. It will include 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 the Accession Partnership. The JMC may recommend a change of priorities 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 of each IA (and of the CFCU where applicable) 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 effected. The MSC will report to the JMC, to which it will submit overall detailed reports on all Phare financed programmes.

#### **5. AUDIT AND EVALUATION**

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 / 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.

## **7. SPECIAL CONDITIONS**

In the event that agreed commitments are not met for reasons which are within the control of the implementing authority concerned, 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.