

## 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 the Republic of Lithuania, 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 November 1991 between THE COMMISSION and THE RECIPIENT, and supplemented by the terms of this Memorandum and the Special Provisions annexed hereto.

### ARTICLE 1 - NATURE AND SUBJECT

As part of its aid programme, THE COMMUNITY shall contribute, by way of grant, towards the financing of the following MEASURE:

<u>Programme number:</u>	2002/000.637
<u>Title:</u>	<b>2002 National Programme for Lithuania -CBC-- Special action in favour of the Baltic Sea Region</b>
<u>Duration:</u>	<b>Until 30.11.2004</b>

### ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 3.00 MEUR 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 **30.11.2004** 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 **30.11.2005**. 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. Michael GRAHAM  
Delegation of the European Commission to Lithuania  
Naugarduko g. 10  
2001 Vilnius  
Lithuania  
Tel: (+370) 52 31 31 91  
Fax: (+370) 52 31 31 92

### **for THE RECIPIENT:**

Ms. Dalia GRYBAUSKAITE  
Minister of Finance  
J.Tumo-Vaizganto g. 8a/2  
2600 Vilnius  
Lithuania  
Tel: (+370) 52 61 85 37  
Fax: (+370) 52 62 07 52

## ARTICLE 5 - NUMBER OF ORIGINALS

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

## ARTICLE 6 - ENTRY INTO FORCE

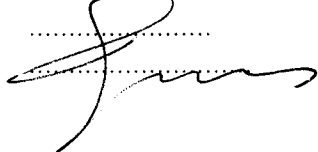
This Memorandum shall enter into force on the date on which it has been signed by both parties. No expenditure incurred before this date is eligible for the EC GRANT.

The Annexes shall be deemed an integral part of this Memorandum.

Done at Vilnius

Date 19.12.2002

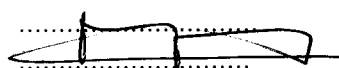
for THE RECIPIENT



Done at Vilnius

Date 19.12.2002

for THE COMMUNITY



Encl.

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

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**SPECIAL PROVISIONS****1. OBJECTIVES AND DESCRIPTION**

PHARE has provided support for co-operation across borders in the Baltic Sea Region since 1995 in the context of the PHARE Cross-Border Co-operation programme. The present programme builds on this cooperation taking up the Conclusions of the European Council in Santa Maria da Feira on 19 and 20 June 2000, and in particular paragraph 76 and the action plan for the Northern Dimension with external and cross-border policies of the European Union 2000 to 2003 referred to in that paragraph.

This appropriation is intended, as part of the flexibility and harmonisation of the Interreg, Phare and Tacis joint approach, to cover the financing of special measures to assist the applicant countries bordering the Baltic Sea and to prepare them for accession.

It is intended in particular to assist the future development of relations and local, regional and NGO cooperation in the Baltic Sea region. Particular attention will be paid to local initiatives to improve the protection of the environment, to prevent crime, to promote human rights, develop human capital, and support economic development in this region. The appropriations shall be used for small-scale local and regional projects.

The Baltic Joint Co-operation Committee shall be responsible for multilateral co-operation regarding the projects financed under this appropriation and can draw heavily on the Joint Programming Document which has been developed by the BJCC partners in accordance with the CBC Regulation.

The present programme can build further on the Small Project Fund implementation developed into accepted Guidelines 2000 and 2001.

The Baltic Joint Co-operation Committee will take special care to include during its meetings the regional representatives nominated by each of the member countries.

**2. DESCRIPTION - JOINT SMALL and MEDIUM SIZED PROJECTS FUND -**

The total appropriation is implemented at the level of each country and therefore each of the countries (Estonia, Latvia, Lithuania and Poland) is allocated an equal amount of 3 M€ in the Phare budget for 2002.

Both soft and hard infrastructure projects are eligible, but a special emphasis is placed on supporting the human resources development projects and, in particular, the development of and co-operation between NGOs in the Baltic Sea Region. Therefore, a significant part of the Institution Building part of this Financing Proposal will be addressed to the development of NGOs in the Baltic Sea Region. Infrastructure projects can only be supported provided they have a strong and demonstrable CBC content

Under Phare, projects are catered for at two levels:

- A Small Project Fund for 'soft' projects between 20.000€ and 50.000€ building on previous years' structures and works within an allocation of 1 M€ per country, except for Poland where the amount is 0.95M€ (see below). The minimum PHARE support per project is 20.000€ and the maximum PHARE support per project is 50.000€.
- A Medium Sized Project Fund for both 'soft' and 'hard infrastructure' projects between 50.000€ and 300.000€, which operates within an allocation of 2 M€ per country. The minimum PHARE support per project is 50.000€ and the maximum PHARE support per project is 300.000€.

Furthermore, a grant of 0.075M€ is addressed to the Baltic Sea States Subregional Co-operation (BSSSC) as operational costs (printing of the documentation, conference organisation, internet

services, training) for the Secretariat and the Chairmanship. This contribution is degressive towards the 1999 grant which was 0.1M€. This grant is taken from Poland's part of the Small Project Fund.

The small-scale actions shall be implemented in accordance with the DIS/PHARE GUIDELINES /GRANT SCHEME GUIDELINES to which the following precisions or adjustments shall apply:

1. Guidelines will be drawn up covering all small projects and will be based on those established for the Phare 2000 and 2001 SPF Baltic Sea Region exercise.
2. The minimum co-financing contribution shall be 20% (25% in case of investment);
3. One Steering Committee per Phare partner country will be established. However, if appropriate, more than one may be established, especially if already existing regional co-operation structures can be used. Steering Committees must include members from various countries of the Region representing regional and local authorities and relevant non-government organisations. It is intended that as a result of the co-ordination between the countries harmonised Guidelines both for the Small Project Fund and the Medium Sized Project Fund will be produced. There will be therefore a harmonised call for proposals and a harmonised application form. For each country an "assessor" will be nominated to take the long list of projects selected and discuss with colleagues in the framework of the BJCC so as to provide for the final project list decided by the BJCC<sup>1</sup>.
4. At least two partner countries must take part in each project, with the emphasis on the contribution of the project to harmonisation of the Interreg, Phare and Tacis joint approach – drawing on the Joint Programming Document developed by the BJCC.
5. Up to 7% of the total amounts allocated can be used on expenditure relating to the preparation, selection, appraisal and monitoring of the assistance.

Each country has to establish the structures to implement its small scale actions, including i.a. establishing the Steering Committee and drawing up its Special Guidelines. Before starting operations, the composition of the Steering Committees and the Special Guidelines for each small scale actions have to be approved by the Commission (Delegation). The Steering Committee will issue calls for proposals and select projects. The Commission must be invited, as observer, to the meetings of the Steering Committee and has a right of control of the activities as described in the General Guidelines.

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, where relevant, 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.

The projects will not include physical investments other than small infrastructure not generating substantial net revenue.

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<sup>1</sup> the BJCC may confirm by written procedure the Phare project allocation decisions of the bilateral MS/CC Interreg Monitoring Committee

### 3 Budget

The budget in MEURO is as follows:

Country / CRIS N°.	Indicative total amounts *)	Phare contribution		Total Phare
		Investment	Institution Building	
<b>ESTONIA</b> <b>2002/000-636</b>	3.60	0.8	2.2	3
<b>LATVIA</b> <b>2002/000-638</b>	3.60	0.8	2.2	3
<b>LITHUANIA</b> <b>2002/000-637</b>	3.60	0.8	2.2	3
<b>POLAND</b> <b>2002/000-639</b>	3.67	0.8	2.2	3
<b>TOTALS</b>	<b>14.47</b>	<b>3.2</b>	<b>8.8</b>	<b>12</b>

\*) figures contain indicatively 20% minimum co-financing.

### 4. Implementation Arrangements

#### a.) Financial and Project Management by the Candidate Country

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 programming, monitoring and implementation of Phare programmes, in each of the beneficiary countries (Estonia, Latvia, Lithuania, Poland). 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 *DIS Manual* and other instructions of the Commission, and that all contracts are being prepared in accordance with the *Practical Guide for PHARE, ISPA and SAPARD*.<sup>2</sup>

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

The National Fund (NF) in the relevant Ministry, 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

As this programme is entirely covered by a grant scheme, both for small and for medium sized projects, none of them will be greater than 2 M€.

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<sup>2</sup> The Practical Guide has replaced section F ("Procurement") of the DIS Manual

### **c.) Contracting and disbursement deadline**

All contracts must be concluded by 30 November 2004. All disbursements must be made by 30 November 2005).

### **d.) Recovery of Funds**

Any proven irregularity or fraud 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:

- (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 each of the beneficiary countries (Estonia, Lithuania, Latvia, Poland) 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.

##### **aa) Transfer of Funds to the National Fund**

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.

Two replenishments will be made of up to 30 % of the funds to be managed locally\* and the final payment of up to 20% or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 5% of the budget\* has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 35% of the total budget\* in force has been disbursed. The final third replenishment will be paid when 70% of the total budget\* in force is disbursed. Exceptionally the NAO may request an advance 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 replenishment 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.

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.

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\* excluding the amount foreseen for the Community programmes

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.

cc.) Transfer of Funds to the National Fund for Participation in Community Programmes and Agencies

A single advance will be made to the National Fund to cover the full amount of the PHARE part of the financial contribution for participation in Community programmes and agencies. This advance will be made following signature of the Financing Memorandum and upon request from the National Fund.

This advance is separate from the advances made for the rest of the programme. However, it should be noted that the Phare contribution for each programme will only be transferred when the Association Council Decision or Memorandum of Understanding establishing the terms and conditions for participation in that programme is in force.

If there is a delay in the entry into force of some of the Memoranda of Understanding, the payment to the National Fund may be divided into two or more tranches, so that 100% of the funds necessary for the programmes in force can be transferred immediately.

The National Fund will be responsible for transferring the funds back to the Commission, following the call for funds of the Commission's Directorate General responsible for the programmes concerned and within the deadlines requested.

dd.) Interest

In principle, all bank accounts<sup>3</sup> 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:**

Poland: Implementing Authority for Phare Cross Border Co-operation Programme, Ministry of Internal Affairs and Administration

Latvia: Central Finance and Contracting Unit (CFCU), Ministry of Finance

Lithuania: Central Finance and Contracting Unit (CFCU)

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<sup>3</sup> in particular, but not exclusively, accounts run by the NF, the CFCU and IAs



### **g.) Environmental Impact Assessment and Nature Conservation**

The procedures for environmental impact assessment as set down in the EIA-directive<sup>4</sup> 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<sup>5</sup>.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive<sup>6</sup> must be documented<sup>7</sup>.

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**

#### Grant Schemes

For grant schemes whose procedures and formats are not covered by the current DIS rules, 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.
- The ex ante approval of the Commission (Delegation in the beneficiary countries: Estonia, Lithuania, Latvia, Poland) will be required for the call for proposals, application forms, evaluation criteria, the selection procedures (including the composition of the committees) and results (list of projects to be funded). The grant

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<sup>4</sup> 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

<sup>5</sup> in **Annex EIA** to the corresponding investment project fiche

<sup>6</sup> DIR 92/43/EEC; OJ 206/7; 22.7.1992

<sup>7</sup> in **Annex Nature Conservation** to the corresponding investment project fiche

contracts signed by the PAO will be subject to the ex-ante control of the EC Delegation.

The implementation of the selected projects through the 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, except for Poland where the Polish Procurement Law will be applied. The decentralised system established for CBC small projects is to be applied to all such contracts below 300 000 EUR (or any increased threshold to be fixed by EC Headquarters for small project funds under CBC programmes). Tenders and contracts above this threshold will be presented to the EC Delegation for ex ante approval. 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 Facility will not include physical investments other than small infrastructure not generating substantial net revenue.

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

### **5. 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.

### **6.) Audit and Anti-Fraud Measures**

#### **a.) By the Candidate Countries**

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 Community law 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<sup>8</sup>.

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 at 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 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 may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96<sup>9</sup>.

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<sup>8</sup> OJ L 178; 12.7.94; p. 43-46

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.

## **7. 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*)

## **8. Special conditions**

In the event that agreed commitments are not met for reasons which are within the control of the Government of the beneficiary countries (Estonia, Latvia, Lithuania, Poland), 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.

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<sup>9</sup> OJ L 292; 15.11.1996; p. 2-5

**ANNEX D**

**INFORMATION AND PUBLICITY**

**1. Objective and scope**

Information and publicity measures concerning assistance from the European Community Phare Programme are intended to increase public awareness and transparency of EU action and to create a consistent image of the measures concerned in all applicant countries. Information and publicity shall concern measures receiving a contribution from the Phare Programme.

**2. General principles**

The appropriate Programme Authorising Officer in charge of the implementation of Financing Memoranda, and other forms of assistance shall be responsible for publicity on the spot. Publicity shall be carried out in co-operation with the EC Delegations, which shall be informed of measures taken for this purpose.

The competent national and regional authorities shall take all the appropriate administrative steps to ensure the effective application of these arrangements and to collaborate with the EC Delegations on the spot.

The information and publicity measures described below are based on the provisions of the regulations and decisions applicable to the Structural Funds. They are:

- Regulation (EEC) 1159/2000 Official Journal of the European Communities No L130/30, 31 May 2000;
- Commission Decision of 31 May 1994; Official Journal of the European Communities No L 152/39, 18 June 1994.

Specific provisions concerning ISPA are included in:

- Commission Decision of 22<sup>nd</sup> June 2001, Official journal of the European Communities No L.182/58

Information and publicity measures must comply with the provisions of the above mentioned regulation and decision. A manual on compliance is available to national, regional and local authorities from the EC Delegation in the country concerned.

**3. Information and publicity concerning Phare programmes**

Information and publicity shall be the subject of a coherent set of measures defined by the competent national, regional and local authorities in collaboration with the EC Delegations for the duration of the Financing Memorandum and shall concern both programmes and other forms of assistance.

The costs of information and publicity relating to individual projects shall be met from the budget for those projects.

When Phare programmes are implemented, the measures set out at (a) and (b) below shall apply:

(a) The competent authorities of the applicant countries shall publish the content of programmes and other forms of assistance in the most appropriate form. They shall ensure that such documents are appropriately disseminated and shall hold them available for interested parties. They shall ensure the consistent presentation throughout the territory of the applicant country of information and publicity material produced.

(b) Information and publicity measures on the spot shall include the following:

(i) In the case of infrastructure investments with a cost exceeding EUR 1 million:

- billboards erected on the sites, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.
- permanent commemorative plaques for infrastructures accessible to the general public, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

(ii) In the case of productive investments, measures to develop local potential and all other measures receiving financial assistance from Phare, Ispa or Sapard:

- measures to make potential beneficiaries and the general public aware of Phare, Ispa or Sapard assistance, in accordance with the provisions cited at paragraph 3(b)(i) above.
- measures targeting applicants for public aids part-financed by Phare, ISPA or SAPARD in the form of an indication on the forms to be filled out by such applications, that part of the aid comes from the EU, and specifically, the Phare, ISPA or SAPARD Programmes in accordance with the provisions outlined above.

#### **4. Visibility of EU assistance in business circles and among potential beneficiaries and the general public**

##### **4.1 Business circles**

Business circles must be involved as closely as possible with the assistance, which concerns them most directly.

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to potential beneficiaries, particularly SMEs. These should include an indication of the administrative procedures to be followed.



## 4.2 Other potential beneficiaries

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to all persons who benefit or could benefit from measures concerning training, employment or the development of human resources. To this end, they shall secure the co-operation of vocational training bodies involved in employment, business and groups of business, training centres and non-governmental organisations.

### Forms

Forms issued by national, regional or local authorities concerning the announcement of, application for and grant of assistance intended for final beneficiaries or any other person eligible for such assistance shall indicate that the EU, and specifically the Phare, Ispa or Sapard Programmes, is providing financial support. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the Programme in question. If such documents bear the national or regional emblem, they shall also bear the EU logo of the same size.

## 4.3 The general public

### The media

The competent authorities shall inform the media in the most appropriate manner about actions co-financed by the EU, and Phare, ISPA or SAPARD in particular. Such participation shall be fairly reflected in this information.

To this end, the launch of operations (once they have been adopted by the Commission) and important phases in their implementation shall be the subject of information measures, particularly in respect of regional media (press, radio and television). Appropriate collaboration must be ensured with the EC Delegation in the applicant country.

The principles laid down in the two preceding paragraphs shall apply to advertisements such as press releases or publicity communiqués.

### Information events

The organisers of information events such as conferences, seminars, fairs and exhibitions in connection with the implementation of operations part-financed by the Phare, Ispa or Sapard Programmes shall undertake to make explicit the participation of the EU. The opportunity could be taken of displaying the European flags in meeting rooms and the EU logo upon documents depending on the circumstances. The EC Delegation in the applicant country shall assist, as necessary, in the preparation and implementation of such events.

### Information material

Publications (such as brochures and pamphlets) about programmes or similar measures financed or co-financed by Phare, Ispa or Sapard should, on the title page, contain a clear indication of the EU participation as well as the EU logo where the national or regional emblem is used.

Where such publications include a preface, it should be signed by both the person responsible in the applicant country and, for the Commission, the Delegate of the Commission to ensure that EU participation is made clear.

Such publications shall refer to the national and regional bodies responsible for informing interested parties.

The above-mentioned principles shall also apply to audio-visual material.

## **5. Special arrangements concerning billboards, commemorative plaques and posters**

In order to ensure the visibility of measures part-financed by the Phare, Ispa or Sapard Programmes, applicant countries shall ensure that the following information and publicity measures are complied with:

### **Billboards**

Billboards providing information on EU participation in the financing of the investment should be erected on the sites of all projects in which EU participation amounts to EUR 1 million or more. Even where the competent national or regional authorities do not erect a billboard announcing their own involvement in financing the EU assistance must nevertheless be announced on a special billboard. Billboards must be of a size which is appreciable to the scale of operation (taking into account the amount of co-financing from the EU) and should be prepared according to the instructions contained in the technical manual obtainable from EC Delegations, referred to above.

Billboards shall be removed not earlier than six months after completion of the work and replaced, wherever possible, by a commemorative plaque in accordance with the specifications outlined in the technical manual referred to above.

### **Commemorative plaques**

Permanent commemorative plaques should be placed at sites accessible to the general public (congress centres, airports, stations, etc.). In addition to the EU logo, such plaques must mention the EU part financing together with a mention of the relevant Programme (Phare, Ispa or Sapard).

Where a national, regional or local authority or another final beneficiary decides to erect a billboard, place a commemorative plaque, display a poster or take any other step to provide information about projects with a cost of less than EUR 1 million, the EU participation must also be indicated.

## **6. Final provisions**

The national, regional or local authorities concerned may, in any event, carry out additional measures if they deem this appropriate. They shall consult the EC Delegation and inform it of the initiatives they take so that the Delegation may participate appropriately in their realisation.



In order to facilitate the implementation of these provisions, the Commission, through its Delegations on the spot, shall provide technical assistance in the form of guidance on design requirements, where necessary. A manual will be prepared in the relevant national language, which will contain detailed design guidelines in electronic form and this will be available upon request.

A handwritten signature in the bottom left corner, consisting of stylized, overlapping letters.A handwritten signature in the bottom right corner, featuring a large, sweeping loop followed by a horizontal stroke.