

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 **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>	LI 9803 to LI 9807
<u>Title:</u>	1998 Phare National Programme for Lithuania
<u>Duration:</u>	until 31 October 2000

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of **29,1 MECU** 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 **31 October 2000**, 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 **31 October 2001** with the exception of the Transport Infrastructure project LI 9807.01 (Marijampole by-pass Corridor no. 1) where the deadline for disbursement is **31 October 2002**. All disbursements must be completed by the deadline for disbursements. 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:

Delegation of the European Commission
Naugarduko 10
2001 Vilnius, Lithuania

Tel.: +370-2-31 31 91

Fax: +370-2-31 31 92

for THE RECIPIENT:

Government of Lithuania
Ministry of Foreign Affairs
Mr Algirdas SAUDARGAS, National Aid Co-ordinator
Minister of Foreign Affairs
J. Tumo-Vaizganto 2
2600 Vilnius, Lithuania
Tel.: +370-2-61 85 37
Fax: +370-2-62 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.

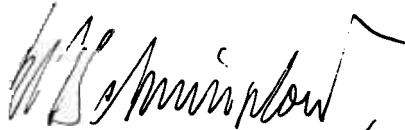
The Annexes shall be deemed an integral part of this Memorandum.

Done at Vilnius
Date:



for THE RECIPIENT
Minister of Foreign Affairs
Algirdas SAUDARGAS

Done at Vilnius
Date:



for THE COMMUNITY
Head of EC Delegation in Lithuania
Henrik SCHMIEGELOW

- | | |
|---------|--------------------------------------------------------------------|
| Annex 1 | Framework Agreement (Annexes A & B) |
| Annex 2 | Special Provisions (Annex C) |
| Annex 3 | Information and Publicity For the European Union's Phare Programme |

SPECIAL PROVISIONS (ANNEX C)

1. OBJECTIVES AND DESCRIPTION

Objective 1: Reinforcement of the institutional and administrative capacity (LI 9803)

9803.01: Agriculture

The agricultural modernisation project addresses two main short and medium-term agricultural priorities identified in the accession partnership, namely veterinary and phytosanitary border control and the continuing development of the land market. Alignment of Lithuanian and Community legislation affecting agriculture, constituting around one third of the legislative volume of the *acquis*, is currently being addressed by Phare projects financed from earlier programmes and does not therefore form part of the 1998 programme.

Veterinary & phytosanitary control:

Reform of veterinary and phytosanitary control procedures has been a government priority for several years. Work is at an advanced stage in the development of a new Food Control Framework Law. Major investments are being made, with Phare assistance, in the national veterinary laboratory which will be renamed the National Food Control Laboratory. In this manner a single laboratory will cover veterinary and phytosanitary control. Sub-working groups have been established to examine the *acquis communautaire* and to advise on necessary changes in Lithuanian law and regulations such that they are compatible with Community Directives and Regulations. As part of an integrated food control system, it is now necessary to restructure border control such that adequate controls are in place to prevent harmful products entering the national food control system through national borders. The Eastern borders of Lithuania are of particular concern. This will be achieved by a simultaneous rationalisation of border posts, combined with a harmonisation of the control points of the two services. Twinning arrangements could be foreseen particularly for strengthening veterinary and phytosanitary inspections at the borders and for training of inspectors.

Land market & farm information system:

Despite considerable restructuring efforts, Lithuania's land market is still at a rudimentary stage of development. By the beginning of 1998, only 20% of all land parcels have been formally registered to give owners full legal title to their land. The low level of registration, coupled with poorly developed market intermediaries, restricts the size of the market in land. Furthermore the national farm register is also at an embryonic stage of development, which will be increasingly necessary to ensure that government rural support programmes are effectively targeted. Further Phare assistance is therefore proposed to continue the land reform process and to more closely integrate the registration system with the requirements of future assistance programmes for agriculture. The land market development component of the project will provide technical assistance, training and computer equipment to develop the national farm register which is integrated with the land cadastre, land register and farm account data. Support will also be provided to the development of the legal environment in which these structures operate.

The conditionality linked to the implementation of the agricultural modernisation programme is linked to the availability of sufficient counterpart staff from the Lithuanian administration financed from local budget funds.

9803.02: Social Security Administrative Reform

In line with the priorities identified in the Accession Partnership and the NPAA related to the strengthening of the budgetary and financial capacity of the administration, the social security financing system needs further enforcement. This project focuses on the provision of an IT system for improving the social security system and provides related management know-how. The absence of an adequate system enables the informal sector to remain undetected and constrains attempts to detect illegal working and evasion of contributions. Therefore, this project is designed to prepare for the new system, provide some equipment and management know-how via training. This new system will enable the integration of tax and social insurance collection.

A second component of this project will provide training to strengthen the Occupational Health and Safety Inspectorate of Lithuania so as to enable the implementation of the social sector acquis.

Conditionality linked to this programme center on the adoption by the Government of the new Law on Reform of the Social Security System, as identified in the NPAA.

9803.03: Regional and structural policy

Under the **Special Preparatory Programme for Structural Funds (SPP)**, twinning arrangements are foreseen to strengthen the Ministry of Finance's capacity for financial control, budgetary process, procurement control and to establish a central audit function.

Conditionality linked to the SPP relates to the availability of counterpart staff from various agencies, ministries and local governments.

9803.04: Institutional capacity building

Statistics:

The Department of Statistics of Lithuania has the responsibility and obligation to adapt to the necessary legal and administrative measures for the establishment of statistical services suitable for a democratic society and a market-driven economy. In the Opinion regarding Lithuania's application for membership of the European Union, the Commission states that improvements have to be made in regional, macroeconomics, business statistics. Therefore, this project is an important element in the reinforcement of Lithuania's institutional and administrative capacity.

This programme will provide equipment in order to improve the collection of trade information (particularly tariff levels) at the border and to train staff at the Department of Statistics of Lithuania.

Customs:

Under the auspices of Lithuania's Ministry of Finance, the Lithuanian Customs administration is carrying out an extensive modernisation programme as part of its strategic Plan for the Lithuanian Customs 1998-2000. The modernisation is in line with the NPAA Its purpose is both to transform Customs, as a key revenue source, and to support the process of accession to the European Union.

This programme will provide mainly equipment (ASYCUDA) and management know how to the Customs department. The programme will significantly contribute towards main accession priority areas, such as the improvement of internal and external financial control capacities and macro-economic forecasting capacity. It will also greatly facilitate equivalent programmes, such as ensuring the full compliance of Customs legislation with EC systems. An institution building component is foreseen to provide expert advice on the implementation of the customs computerisation (ASYCUDA).

Intellectual Property Rights:

In order to strengthen the capacity of the Ministry of Culture to control and coordinate the protection of intellectual property rights for Lithuanian artists and imported ones as well as to meet a priority of the Accession Partnership on improving the capacity for enforcement of this legislation at the national level, this programme will provide institution building to the Ministry of Culture as well as training.

Standards and Technical Regulations:

This programme provides for twinning arrangements in order to strengthen the administrative and enforcement capacity of two agencies dealing with implementation of technical regulations, norms and standards and conformity assessments, these are the National Standardisation Bureau and National Accreditation and Patents Office.

Audit & finance:

This programme provides for twinning arrangements in order to strengthen the administrative capacity of the Ministry of Finance with regard to the budgetary process, audit and finance.

***Objective 2: Justice and Home Affairs (JHA)
(LI 9804)***

In order to assume the obligations of EU membership, steps have to be taken to improve law enforcement. This implies improvement of the functioning of the police, of the judicial system, and of the immigration authorities.

Border management and control has to be improved including demarcation of the Eastern border. The objective is to combat illegal immigration and to prevent proliferation of nuclear material, smuggling of drugs, weapons, and other illegal goods. Lithuania also has to intensify the fight against organised crimes and in particular against transnational financial crimes, money laundering, car theft and fraud.

9804.01: JHA/investment support

In addition to the provision of institution building support, this programme will also provide funding for the construction of police border posts along Lithuania's Eastern border.

9804.02: JHA/institution building

Another important area is in general to improve the operation of the judicial system and to ensure sufficient and adequately trained staff with a high degree of integrity in particular police, border guards, ministries and courts. Steps also have to be taken in order to ensure ratification of the international conventions, in particular in relation to visa policy and to the Schengen Acquis. It is important to ensure that financial and human resources are available for institutional development and for involvement in judicial co-operation with EU counterparts. Twinning arrangements are foreseen in order to train judges and to provide expert advice and training for border police.

Conditionality on the above programmes centers on the continuation of the broad policy framework of the government which puts fight against corruption and border control at the top of the agenda. It also requires the establishment of proper coordination mechanisms at the national level to avoid fragmentation of JHA actions. This reinforced coordination is foreseen in the NPAA.

Objective 3: *Environment (LI 9805)*

Environment certainly ranks among Lithuania's top priorities, and a lot has been done in the last few years to prepare and ensure compliance of the national legislation with that of the EC. A National strategy for approximation was developed in 1997 on the basis of eight detailed sectoral strategies. This required translation of over 60 Community legal acts. New laws were passed to transpose the regulations and directives. The NPAA foresees that 6 additional framework laws will be passed in 1998.

Despite this impressive agenda, much remains to be done. The Agenda 2000 and the AP pointed a number of recommendations to be addressed in the short or medium term. These served as basis for the National strategy and for the NPAA.

The present programme contains two different projects focusing respectively on institutional building and investments at regional and municipality level (for Plunge and Varena municipalities). The development of the project will thus require joint inputs from the Ministry of Environmental protection and from the municipalities involved in the investment project (Plunge and Varena).

9805.01: Environment/institution building

The programme foresees the institutional development of the Ministry of Environmental Protection and the strengthening of enforcement structures including project identification and preparation.

9805.02: Environment/investment support

Moreover, investment support is foreseen to upgrade the quality of water supply and hazardous waste management by building a municipal landfill in Plunge and a Waste Water Treatment Plant in Varena including support to project preparation.

Support is also foreseen to complete the provision of the air monitoring system at the Joint Research Centre in order to enhance the quality of the control of emissions to the atmosphere (started under the Phare 1997 programme).

Conditionality on the environment programme focuses on the adoption by end 1998 of the 6 additional framework environment laws foreseen in the NPAA. It also centers on the availability of counterpart staff in the two municipalities where most investments will take place (Plunge and Varena).

Objective 4: *Energy (LI 9806)*

Energy is a key sector for Lithuania's economy and has a large political impact given Lithuania's heavy reliance on nuclear power for its energy production. For the past few years the energy policy in the frame of the National energy strategy has been orientated towards improving energy conservation and efficiency, introduction of commercial relationship and market disciplines (which pre-supposes the reduction of government subsidies). The recently updated National energy strategy confirms the general economic orientations and trends.

9806.01: Strengthening of the capacity of the nuclear power safety regulatory agency

Particular attention from the donor community has been paid to improving the nuclear safety at the Ignalina power plant. A number of bilateral (in particular the Scandinavian and Nordic countries) and multilateral (EBRD and the Phare Programme) donors have provided both TA and investment support to upgrade the security conditions of the power plant. To that end the Government established a nuclear power safety inspectorate (VATESI) whose role is to coordinate all activities related to nuclear safety. The programme could include twinning arrangements to strengthen the institutional capacity of the Agency.

9806.02: Study on the social costs of decommissioning Ignalina

The programme also provides for financing of a study on the social costs of decommissioning Ignalina which will provide important input in the general debate surrounding the decommissioning of Ignalina and assist in long term cost estimates.

9806.03: Energy/investment support

Finally the programme, provides for funding to build a Heavy Fuel Storage Reservoir which will contribute to meeting the emergency preparedness acquis and which was identified in the Accession Partnership priorities.

The programme also makes provisions for the support to the Ministry of Economy's energy agency during the finalisation, detailed elaboration and implementation of the National Energy Strategy. This support will also be available to advise on establishing a plan for the implementation and drafting of appropriate legislation.

The overall Phare support to the energy sector is conditional on the adoption by the Lithuanian Government, by July 1998, of the National Energy Strategy Plan (as indicated in the NPAA).

Objective 5: Transport (LI 9807)

One of the most important objectives, included in **National Transport Development Programme** (approved by the Government in the beginning of 1994) is the integration into the European transport networks and transport services market. The Via Baltica project has been given particular priority from both the political and technical point of view. It runs from Tallinn to Warsaw, linking Lithuania to Latvia, Estonia and Finland to the north, and Poland in the south.

9807.01: Integration of Lithuania into Trans-European networks; road safety improvements on Via Baltica

The Lithuanian road element of "Via Baltica" runs from the Polish border, via Kaunas, to the Latvian border. The route passes through a number of towns and villages, and many sections have pavement defects and substandard bridges. The project for reconstruction of Via Baltica has been analysed and its feasibility demonstrated, economically and environmentally. Studies have been financed by International Financing Institutions, local funds and bilateral agreements. Funding is foreseen for the reconstruction of the section Marijampole-Lithuanian/Polish border on Via Baltica.

9807.02: Road safety improvements on access road to Vilnius airport

Moreover, this programme will finance security and safety improvements on the access road to Vilnius airport.

9807.03: Harmonisation of transport legislation

The programme will provide technical assistance to the Ministry of Transport for the preparation of legislation and its harmonisation with Community legislation as well as for the increase of the project implementation and monitoring capacity of the Ministry including training.

Conditionality linked to this programme centers on earmarking of national budgetary counterpart funds and on availability of local staff to act as project counterparts.

An environmental impact assessment will be carried out for all investment projects.

Equal opportunity of men and women to participate in all projects will be ensured. Indicators will be elaborated to assess the extent of women's participation in projects.

2. BUDGET¹

SUB-PROGRAMME & PROJECT		Sector totals	1998	
NUMBER	OBJECTIVES²		Inst.build.	Investm.
LI9803	OBJECTIVE 1			
	Reinforcement of the institutional and administrative capacity			
LI9803.01	Agriculture modernisation Veterinary & phytosanitary control Land market & farm information system	2,400	1,200	1,200
LI9803.02	Social security administrative reform IT System for social security& Occupational Health Inspectorate training	2,130	0,880	1,250
LI9803.03	Regional and structural policy Special Preparatory Programme for Structural Funds (including twinning for audit and financial control)	3,000	2,000	1,000
LI9803.04	Institutional capacity building Statistics Customs (equipment/ASYCUDA) Intellectual property (TA) <i>Twinning (norms and standards, conformity assessment)</i> <i>Twinning (budgetary process, audit, finance)</i>	4,270	0,850	3,420
LI9804	OBJECTIVE 2			
	Justice & home affairs	3,500	1,000	2,500
LI9804.01	Building Border Police Stations & TA <i>Twinning (training of border police and judges))</i>			
LI9805	OBJECTIVE 3			
	Environment	4,800	1,480	3,320
LI9805.01	Institutional development of Ministry of Environmental Protection			
LI9805.02	Investment support (for Plunge and Varena Municipalities to upgrade water supply and hazardous waste management; provision of air monitoring system)			
LI9806	OBJECTIVE 4			
	Energy	5,000	1,700	3,300
LI9806.01	Nuclear Regulatory Agency (VATESI)			
LI9806.02	TA for Study on Social Costs of decommissioning Ignalina Nuclear Power Plant			
LI9806.03	Building Heavy Fuel Storage Plant / Approximation of energy legislation			
LI 9807	OBJECTIVE 5			
	Transport	4,000	0,500	3,500
LI9807.01	Marijampole by-pass Corridor no.1			
LI9807.02	Access road to Vilnius airport (safety improvements)			
LI9807.03	Harmonisation of transport legislation			
	TOTAL	29,100	9,610	19,490

¹ Up to 15% of the budget may be contracted directly by the Commission and will not, therefore, be transferred to the National Fund

² Community programmes (1,9 MECU) and Tempus (1 MECU) committed under separate Financing Proposals

3. IMPLEMENTATION ARRANGEMENTS

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 Ministry of Finance, headed by the National Authorising Officer (NAO), will supervise the financial management of the Programme and will be responsible for financial reporting to the European Commission. Appropriate financial control shall be carried out by the competent National Financial Control Authority with respect to the implementation of the programme.

The Commission will transfer the funds to the NF in accordance with the Memorandum of Understanding between the Commission and the Ministry of Finance to be signed in the autumn 1998. Funds will be transferred following requests from the NAO. A payment of up to 4.947.000 ECU will be transferred to the NF following signature of the Financing Memorandum. Four Replenishments will be made of up to 4.947.000 ECU 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.

In the case of **twinning arrangements in the following areas**, the Commission may transfer funds to finance long-term secondments of staff directly to the Bureau d'Assistance Technique which will be established in Brussels to implement the following:

- Ministry of Agriculture: strengthening veterinary and phytosanitary inspections at the borders and for training of inspectors
- Ministry of Finance: strengthening of Financial Control, budgetary process and financial audit; development of structural policy approach - audit and procurement control;
- National Standardisation Bureau and National Accreditation and Patents Office
- Ministry of Justice: training of judges, acquis enforcement
- Ministry of Interior: training of border police
- Ministry of Environmental Protection: strengthening of institutional capacity

Implementing Agencies will be responsible for sub-programmes as follows:

Central Financing and Contracting Unit:

- LI 9803.01: Agriculture modernisation
- LI 9803.02: IT system for social security; Occupational health inspectorate training
- LI 9803.04: Institutional capacity building (statistics, customs, intellectual property)
- LI 9804.01: Construction of border police station
- LI 9805.01: Strengthening of institutional capacity of the Ministry of Environmental Protection
- LI 9805.02: Environment investment support
- LI 9806.01: Strengthening of institutional capacity of the Nuclear Power Safety Inspectorate
- LI 9806.02: Decommissioning of Ignalina Nuclear Power Plant
- LI 9806.03: Building of heavy fuel storage plant

Ministry of Finance/Ministry of Public Administration Reform:

- LI 9803.03: Special Preparatory Programme for Structural Funds

Ministry of Transport:

- LI 9807.01: Marijampole by-pass (Via Baltica)
- LI 9807.02: Safety improvements on access road to Vilnius Airport
- LI 9807.03: Harmonisation of transport legislation

The National Fund will transfer funds to Implementing Agencies (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 there will be no transfer of funds from the NF to the CFCU. The CFCU and the IAs will 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 interest bearing bank account, denominated in ECU will be opened and managed by the NF in a separate accounting system in a Bank agreed in advance with the Commission. 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, except for twinning arrangements for which separate measures are being defined by the Commission.

All contracts must be concluded by 31 October 2000. All disbursements must be made by 31 October 2001. In the case of the transport infrastructure project LI 9807.01 disbursements must be made by 31 October 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) 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 Government of Lithuania, 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 global Phare programme.