

FINANCING MEMORANDUM¹

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:

Programme number: 2002/000.620.01.01- 2002/000.620.08.01
Title: **2002 National Programme for Lithuania Part 3**
Duration: **Until 30.11.2004**

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 18.791 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**.² 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

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

² Consistency between the main text of the FP (1st page) and the FM (1st page as well as in the 'Implementation Arrangements' chapter) must be ensured. The deadline for contracting and the deadline for disbursements should correspond accordingly.

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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 to Lithuania
Naugarduko 10
2001 Vilnius
Lithuania
Fax: 00 370 52 31 31 92

for THE RECIPIENT:

Mrs Dalia Grybauskaite
Ministry of Finance
J.Tumo-Vaizganto 8a/2
2600 Vilnius
Lithuania

ARTICLE 5 - NUMBER OF ORIGINALS

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

ARTICLE 6 - ENTRY INTO FORCE

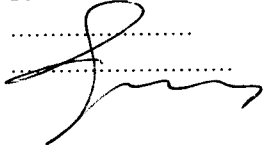
This Memorandum shall enter into force on the date on which it has been signed by both parties. No expenditure incurred before this date is eligible for the EC GRANT.

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

Done at Vilnius

Date 19.12.2002

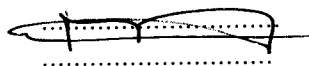
for THE RECIPIENT



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)




1. OBJECTIVES AND DESCRIPTION

The third part of the 2002 National Phare Programme for Lithuania covered by this Financing Proposal has the underlying aim of building up institutions and actors capable of contributing to the development of strategic ESC approaches, of pilot-testing and implementing ESC measures at the practical level (notably through grant schemes), and of creating a pipeline of future projects to be financed under the Structural Funds upon accession. It also aims at providing support to three additional Institution Building projects.

This part of the National Phare Programme thus covers a set of four objectives based on pilot projects of a sectoral nature aiming at familiarising selected Lithuanian intermediary bodies and final beneficiaries with procedures similar to those of the Structural Funds (SF). The different sectors chosen for these interventions comprise: business development, training and skills adaptation, tourism infrastructure, and innovation (IT). In addition there is a fifth objective which comprises a project preparation facility intended to help create a pipeline for future SF actions. The projects will contribute to the medium-term AP objectives of improving the administrative structures and procedures according to Structural Funds standards, including pilot-testing, appraisal and evaluation of procedures, particularly in relation to the operation of grant schemes. The three additional projects relate to three objectives aiming at building up capacity in their respective areas, and they are all related to current APs in the respective sectors.

In view of the provisions of Article 4 of the Accession Partnership Regulation (EC 622/98), overall agreement on the Phare 2002 programme will depend on the Government's commitments, as described in the individual project fiches. Any structures to be set up in relation to the projects should be established on a sustainable basis, which is the responsibility of the authorities and agencies concerned.

Below is a more detailed description of the projects to be financed.

OBJECTIVE 1: BUSINESS DEVELOPMENT

2002/000.620.01.01 Support to business development

Under the Accession Partnership 2001 (economic criteria) further improvement of business support infrastructure is identified as a priority objective for Lithuania, as is the need for development of technical capacity for preparing SF projects. The NPAA identifies SME promotion as a priority, as does the NDP, particularly in the sphere of business advisory services. The overall objective of this project is thus to support business development within the context of preparing for the EU structural funds. The specific project purpose is to pilot test capacity of existing institutions /agencies to manage EU funding and to assist businesses in absorbing it, via four grant schemes which will focus on both service providers, tourism infrastructure and direct support to companies and private entities. The project is linked to a number of existing Phare ESC and Institution-building projects from the 2000 and 2001 programmes and is also linked to the project on tourism presented in this proposal under objective 3 (LT.02.14.01). The expected results are that the absorption capacities of the selected institutions will have been tested and strengthened and specific numbers of small scale grants successfully awarded to SMEs in the chosen areas of activity.. This is essentially an investment project, though a modest amount of Technical Assistance is also foreseen. The project is conditional on a considerable amount of co-financing being made available in the Ministry of Economy and on guarantees of adequate staffing levels in the relevant division in the ministry and in the principal operational agency (SMEDA).

OBJECTIVE 2: SOCIAL AFFAIRS AND TRAINING

2002/000.620.02.01 Promotion of Adaptability, Skills and Social Inclusion

The project addresses the 2001 Accession Partnership objective of taking measures to reduce high levels of unemployment, particularly for men and young people, by promoting adequate re-training. Its overall objective is to increase social and economic cohesion by improving employability, helping workers adapt to structural change and promoting social inclusion. The specific project purpose is to test the future ESF intermediate body and final beneficiary through running of two ESF-type grant schemes, and to test other ESF type measures in the field of employability and social inclusion. The project is linked to the Phare project LT01.13.01 on vocational training and also to the 2001 SPPII project dealing with the development of administrative capacities of ESF intermediate bodies and paying authority functions. Expected results include increased competence in the management of aid schemes in the pre-ESF agency, improved partnership between training institutions and companies, NGOs and local authorities in the delivery of pilot projects and funding of a specific number of related grant schemes in the area of skills adaptability and social inclusion. It is mainly an investment project, but with a significant Technical Assistance component. The project is conditional on co-financing being made available and on the Joint ESF Agency being operational, with adequate staff and resources in place.

OBJECTIVE 3: TOURISM

2002/000.620.03.01 Development of the pilot Western Lithuanian Cycling Circuit.

The project reflects the ESC priorities set in the 2000 NPAA and the 2001 National Development Plan, which include implementation of a national tourism development programme. The overall objective is thus to increase economic and social cohesion through strengthening of rural tourism activities. The project aims to achieve this through development of an environmentally-friendly pilot bicycle circuit, better access to sites of touristic interest and promotion of the bicycle tourist product both internally and internationally (capacity- strengthening). Links exist with the tourism component in the parallel 2002 ESC business support project (see above) and also with the 2001 ESC project on national tourism information (LT.01.12.01) and with a cycling route project financed by the UNDP Global Environment Facility. Expected results include physical development of the circuit itself together with an integrated sign-posting system, a guidebook and promotional material, training /awareness programmes and capacity-building support for the appropriate unit in the State Tourism Department. This is essentially an Investment project, though with a significant element of Technical Assistance support.. The project is conditional on co-financing, on completion of technical designs before start-up, on guarantees of support from the Roads Department and on guarantees concerning the continued funding of the proposed management unit.

OBJECTIVE 4: INNOVATION

2002/000.620.04.01 Development of regional broadband wireless access in Neringa municipality

The project addresses the Accession Partnership objective of promoting innovation and technological development and of improving the business environment. It is also in line with measure 2 (local and regional development) and measure 4 (economic infrastructure) of the National Development Plan and with the Klaipeda regional development plan. The project is a pilot project to test the future operation of Structural Funds at local level and is the first larger-scale investment in business infrastructure being supported within the Phare ESC programme. The development of the information infrastructure in Neringa will help solve its social and economical problems; these are linked with the remoteness of this region and the deep seasonal fluctuations of business and social life. The project will enable the peripheral region to use its strength and opportunities, linked with resort tourism and other unique perspectives. The overall objective is to improve business-related infrastructure in Neringa, thus contributing to economic and social cohesion and regional development in this area. The aim of the project is to develop organisational and technical infrastructure (broadband wireless telecommunications access) in the Neringa area and to connect the regional broadband access system to national and international systems, thus helping Neringa

municipality and local businesses to exploit eBusiness infrastructure in the interests of better local economic development. The project is not directly linked to any existing Phare project, but will be complementary to those mentioned in the areas of business support, competitiveness, and innovation financed under the 2000/2001 programmes. The expected results will be installation of BWA facilities for the whole population of Neringa at affordable costs, linkage with national and international core telecommunications networks, and capacity-building for the municipal authorities and other local stakeholders in the management of the local infrastructure, including a related awareness campaign. The project will be implemented mainly through investment, though there will also be a significant technical assistance component. The project is conditional on national co-financing, the prior issuing of the required BWA licences to the municipality, completion of preparatory works by the municipality and a positive outcome to the envisaged feasibility study.

OBJECTIVE 5 PROJECT PREPARATION FACILITY

2002/000.620.05.01 Project Preparation Facility for Objective 1 Structural Funds support

The project is in line with the 2001 Accession Partnership priority of developing the technical preparation of projects eligible for Structural and Cohesion Funds assistance (project pipeline), a point which is also emphasised in the 2001 Regular Report. It also reflects the priorities set in the chapter on economic and social cohesion in the NPAA; The overall objective is thus to facilitate the successful launch and implementation of Structural Funds(SF) support upon Lithuania's accession to the EU. The aim is to ensure speedy and efficient tendering of investment projects under SF rules. The expected results of the project will be elaborated feasibility studies, detailed technical designs/bills of quantity, procurement plans and tender documentation and environmental impact screenings/assessments. The project is linked to the Phare 2001 project preparation facility (LT01.15.01) and to the 2001 Phare special preparatory programme for structural funds (SPPII- LT 01.09.02) which provides support for institution building to further prepare Lithuanian authorities for implementation of SF, including help in the preparation of the Objective 1 draft Single Programming Document.. This is a technical assistance project with a significant co-financing component. The project is conditional on the provision of this co-financing component.

OBJECTIVE 6 ENERGY

2002/000.620.06.01 Strengthening of the Transmission System Operator and the Market Operator after the restructuring of the AB Lietuvos Energija

The overall objective of this project is to prepare the Lithuanian electricity market for integration into the Internal Energy Market by development of the Transmission System Operator (TSO) and the Market Operator (MO) in accordance with national as well as EU requirements and support the enhancement of the security of electricity supply and the quality of electricity in Lithuania. The Regular Report stresses that an independent transmission system operator must be established and that Lithuania needs to maintain its efforts in the area of the Internal Energy Market. According to the Accession Partnership Lithuania should complete the alignment process with regard to the internal energy market (electricity and gas) and establish an independent transmission system operator (electricity). The aim of the project is to support the development of the TSO and the MO by providing necessary expertise including training of the staff in using new techniques for operation services for the market and in developing the electricity system; complete legal approximation to the EU requirements including support to improvement of secondary legislation and enforcement guidelines and develop local and regional institutions needed for security of electricity supply. The results of the project will be roles of the TSO and the MO defined in relation to other commercial and non-commercial market players and other stakeholders; secondary legislation and enforcement guidelines updated and consistency with the EU directives secured; more effective internal TSO and MO structures, new policies, procedures and communication developed; liberalisation process

developed in terms of co-operation/ integration in potential external markets; new techniques for the transmission system developed; institutional framework as regards system reliability in a national and international context developed; security of supply and quality of electricity updated to West-European standards; procedures introduced in system development that covers energy consumption, transmission and all energy sources including renewable energy. The project is linked to two earlier Phare projects Transposition, Implementation and Enforcement of the Energy Acquis (1999) and Strengthening of the Energy Market Regulator (2001). This is a twinning project with a small services contract. The project is conditional upon provision of national co-financing of the service contract.

OBJECTIVE 7 Occupational Health and Safety

2002/000.620.07.01 Improvement of OSH administration, further enforcement of legislation through development of labour inspection capacities

The overall objective of this project is to strengthen OSH policy implementation in Lithuania according to EU requirements. According to the Accession Partnership Lithuania should complete transposition of the social acquis, and ensure its proper implementation through the appropriate enforcement structures, including the labour inspectorates, according to the agreed timetable. In the Regular Report it is stated that administrative capacity needs to be strengthened in order to ensure effective operation of the Labour Inspection institutions. The project is linked to the 1998 and 1999 projects in this field. The aim of the project is to further strengthen institutional and administrative capacity of Lithuanian competent institutions in order to apply EU Acquis in the field of occupational safety and health. The results of the project will be the implementation of OSH legislation on regional, industrial and enterprise level in compliance with the EU Acquis; effective notification and inspection procedures to fulfil EU reporting obligations created; safer working environment in the enterprises ensured; improved inspection and consulting abilities of labour inspectors; improved work efficiency of National Labour Inspectorate/Regional Labour Inspectorates; labour inspectors' training system implemented. The project consists of a twinning project, a supply, and a service contract. The project is conditional upon national co-financing for the supply and service contract and on taking into account recommendations of a final report from an earlier project in this field (LI 9911.01).

OBJECTIVE 8 PUBLIC ADMINISTRATION

2002/000.620.08.01 Improvement of Public Service Management via strengthening of Agency of the Public Service Management

The overall objective of this project is to develop Lithuanian public service into a modern, independent, professional and efficient public service, and fully apply and implement public service legislation in line with the Copenhagen criteria and good practice of the EU Member states. Accession Partnership 2001 foresees consolidation of a modern, independent, professional and efficient public service as a high priority by ensuring inter alia further training. The aim of the project is to strengthen administrative capacities of the Agency of Public Service Management; ensure implementation of the Public Service Law, including preparation and implementation of necessary secondary legislation and necessary methodologies; increase the administrative capacity of ministries and government institutions via development of plans and tools for human resource management (HMR) and implementation of the Public Servants Management System (PSMS) according to good practice in EU Member States. The project is linked to Phare assistance from 1997 concerning preparation of draft Public Service Law and a 1999 Phare project dealing with public service training. The results of the project will be proposals of necessary secondary legislation and methodologies for the successful implementation of Public Service Law prepared; manual on Human Resource Management (HRM) preparation strategy and its implementation guidelines prepared and published; training programmes, including train-the-trainer, on HRM prepared and delivered to the relevant personnel (about 700 persons), training programmes (including train-the-trainer component) on the operation of PSMS prepared and provided for the

personnel of Agency of the Public Service Management and representatives from each institution involved in the project (about 700 persons); soft- and hardware operational. The project will be implemented through a twining component, technical assistance component and a supply component. The project is conditional upon national co-financing for the technical assistance and supply component.

2. BUDGET

Objective 2002/000.	Phare Funding			IFI	Total
	Institution Building (IB)	INV	Phare Total I+ IB		
Objective 1: Business Development					
620.01.01- Support to Business Development	0,300	6,000	6,300		6,300
Objective 2: Social Affairs/ Training					
620.02.01- Promotion of Adaptability, Skills and Social Inclusion	0,400	2,250	2,650		2,650
Objective 3: Tourism					
620.03.01- Development of the Pilot Western Lithuanianin Cycling Circuit	0,400	1,988	2,388		2,388
Objective 4: Innovation					
620.04.01- Pilot project for promotion of information society via development of regional broadband wireless access (data, voice, video transmission and other ITT service infrastructure)	0,335	0,953	1,288		1,288
Objective 5: Project Preparation Facility					
620.05.01- Project Preparation Facility for Objective 1 Support		1,500	1,500		1,500
Objective 6: Energy					
620.06.01- Strengthening of the Transmission System Operator and the Market Operator after the restructuring of the AB Lietuvos Energija	1,79		1,79		1,790
Objective 7: Occupational Health and Safety					
620.07.01- Improvement of OSH Administration, further enforcement of legislation through development of labour inspection capacities	1,0	0,375	1,375		1,375
Objective 8: Public Administration					

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620.08.01- Improvement of Public Service Management via strengthening of Agency of the Public Service Management	0,7	0,8	1,5		1,500
TOTAL	4,925	13,866	18,791		18,791

3. 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) procedures¹.

The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes. 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*.²

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 Ministry of Finance, 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

Most projects will be smaller than 2 M€ as follows:

2002/000.620.04.01 Regional broadband wireless access (1.288 € million)

2002/000.620.05.01 Project Preparation Facility (1.5 € million)

L2002/000.620.06.01 Strengthening of the Transmission System Operator and the Market Operator after the restructuring of AB Lietuvos Energija

2002/000.620.07.01 Improvement of OSH administration; further enforcement of legislation through development of labour inspection capacities

2002/000.620.08.01 Improvement of Public Service Management via strengthening of the Agency of Public Service Management.

The first of these cannot be bigger in scope because it is a pilot project dealing with a relatively small and geographically cut-off municipal area in the Curonian Spit; population size would not justify bigger investment. The second project is essentially a reserve designed to help prepare a future project pipeline, and it would not be appropriate to allocate an amount over 2 € million to such a reserve. The other projects target specific and limited areas of the acquis and their scope and activities have been carefully designed to address the existing gaps. It is considered that an optimal use of the resources will be achieved with the present design.

c.) Contracting and disbursement deadlines

¹ taking into consideration the rules set down in the annex of Council Regulation 1266/1999

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

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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 Lithuania 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 by express prior authorisation from the Commission HQ, 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.

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.

dd.) Interest

In principle, all bank accounts³ 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:

No. 2002.000.620...	Project	Implementing Agency	Ministries or Institutions with a technical role
01.01	Support to Business Development	CFCU/ Ministry of Economy *	SMEDA under the Ministry of Economy
02.01	Promotion of Adaptability, Skills and Social Inclusion	CFCU/ Ministry of Social Security and	Joint Pre-ESF Agency under the Ministry of Education

³ in particular, but not exclusively, accounts run by the NF, the CFCU and IAs

For

		Labour (MSSL) *	and Science, and the MSSL.
03.01	Development of the Pilot Western Lithuanian Cycling Circuit	CFCU	State Tourist Department under the Ministry of Economy
04.01	Pilot project for promotion of information society via development of regional broadband wireless access.	CFCU	Municipality of Neringa; the Ministry of Internal Affairs
05.01	Project Preparation Facility for Objective 1 SF Support	CFCU	Ministry of Finance
06.01	Strengthening of the Transmission System Operator and the Market Operator after the restructuring of AB Lietuvos Energija	CFCU	AB Lietuvos Energija
07.01	Improvement of OSH Administration, further enforcement of legislation through development of labour inspection capacities	CFCU	Ministry of Social Security and Labour
08.01	Improvement of Public Service Management via strengthening of the Agency of Public Service Management	CFCU	Ministry of Interior; Agency of Public Service Management

* Role of Implementing Authority will shift after full accreditation of new bodies under EDIS (Extended Decentralised Implementation System)

g.) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive⁴ 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 documented⁵.

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive⁶ must be documented⁷.

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

Under the Phare 2002 programming guidelines, the lower limit for grants is normally €50 000 (Phare contribution) per grant. However, in the case of the current financing proposal, and at the request of the Lithuanian authorities, it has been decided that up to 15% of the total allocation of each grant scheme may be used for projects falling within the range €20 000 - €50 000 (Phare contribution). This is to take account of the limited absorption capacity of some of the potential beneficiaries of the schemes.

⁴ 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

⁵ in Annex EIA to the corresponding investment project fiche

⁶ DIR 92/43/EEC; OJ 206/7; 22.7.1992

⁷ in Annex Nature Conservation to the corresponding investment project fiche

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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 Lithuania) 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 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. 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.

4. 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.

5. 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 1681/94¹⁵.

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. 2185/96¹⁴.

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.

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.

¹⁵ OJ L 178; 12.7.94; p. 43-46

¹⁴ OJ L 292; 15.11.1996; p. 2-5

This will be done in close liaison with the Commission Delegation. Further details are set down in Annex 6.

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 Phare programme.

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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 22nd 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.

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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.

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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.

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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.

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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.

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