

## 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 Latvia, 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>	LE01.07
<u>Title</u>	Co-operation Programme in the Baltic Sea Region 2001
<u>Duration</u>	Until 15 November 2003.

### ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 3.0 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 **15 November 2003** 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 **15 November 2004**. 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:**

Delegation of the European Commission  
Jacob's Barracks  
Tornu 4, Block 1C  
1050 Riga, Latvia  
Telex: +371-732 72 50  
Fax: +371-732 52 79

**for THE RECIPIENT:**

Government of Latvia  
Mr. Roberts Zile, National Aid Co-ordinator  
Minister for Special Assignment for Cooperation with  
International Financial Agencies  
Smilšu Street 1  
LV-1919 Riga  
Tel.: +371-709 5690  
Fax: +371-709 5693

#### 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 Riga  
Date: 15.01.02



for THE RECIPIENT  
Minister for Special Assignment

for Cooperation with International Financial  
Agencies  
Roberts ZILE

Done at Riga  
Date: 17.01.02



for the COMMUNITY  
Head of the Delegation of the European  
Commission in Latvia

Gunter WEISS  
**HEELA GERTH**  
Charge d'affaires a.i.

## **ANNEX C SPECIAL PROVISIONS**

### **1. STRATEGY**

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, 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 Committee shall be responsible for multilateral decision-making regarding the projects financed under this appropriation and can draw heavily on the Joint Programming Document which has been developed by the BJC partners in accordance with the CBC Regulation.

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

The wide ranging Baltic Sea Region multi-lateral / multi-county aspects will be examined for funding in 2002, and preparatory work using the multilateral conference approach for “seeding” the process may be funded in the 2001 Programme – at the discretion of the Baltic Joint Committee.

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

### **2. DESCRIPTION - SMALL PROJECTS - ES01.09/ LE01.07/ LI01.16/ PL01.11**

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 3M€ in the Phare budget for 2001.

Both soft and hard infrastructure projects are eligible, but a special emphasis is placed on supporting the human resources development projects. 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 projects up to 50.000 € building on previous years' structures, and works within an allocation of 1 M€ per country. The maximum PHARE support per project is 50.000 € and is indicatively provided for up to 25 projects with allocations between 20.000 € and 50.000 €

- A Grant Scheme for projects greater than 50,000 € and operates within an allocation of 2 M€: This is indicatively provided for up to 15 projects of a minimum size of 50.000 € and maximum of 300.000 €

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 SPF Baltic Sea Region exercise.
2. The minimum co-financing contribution shall be 20%;
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 Grant Scheme 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 BJC so as to provide for the final project list decided by the BJC<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 BJC.
5. Up to 10% 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 Small Projects will not include physical investments other than small infrastructure not generating substantial net revenue.

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<sup>1</sup> the BJC 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 / Project No.	INDICATIVE TOTAL AMOUNTS *)	Phare contribution
ESTONIA (ES01.09)	3.6	3.0
LATVIA (LE01.07)	3.6	3.0
LITHUANIA (LT01.16)	3.6	3.0
POLAND (PL01.11)	3.6	3.0
<b>TOTALS</b>	<b>14.4</b>	<b>12.0</b>

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

### 4. Implementation Arrangements

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 and Poland). The National Aid Co-ordinator and the National Authorising Officer 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 National Authorising Officer (NAO), will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. The National Authorising Officer 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 proper reporting and project information system is functioning. The National Authorising Officer shall have the full overall accountability for the PHARE funds of a programme until the closure of the programme.

Appropriate financial control shall be carried out by the competent National Control Authority with respect to the implementation of the programme.

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the country concerned in December 1998<sup>2</sup>. Funds will be transferred following requests from the NAO.

A payment of **up to** 20% of the funds to be managed locally will be transferred to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between

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<sup>2</sup> All candidate countries signed the MoU for the establishment of the National Fund in December 1998.

the NF and the Implementing Agencies (IAs)/Central Finance and Contracts Unit (CFCU). The provisions foreseen in articles 2 and 13 of the MoU on the NF must also be met. Furthermore, the NAO must submit to the Commission the designation of the PAOs and a description of the system put in place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function will be carried out.

Four Replenishments will be made of **up to 20%** of the funds to be managed locally or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 10% of the budget has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQs, 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.

The NAO may exceptionally request an advance payment of more than 20% in accordance with the procedures laid down in the aforesaid Memorandum of Understanding.

The Implementing Agencies in the countries will be responsible for the programme as follows:

Country / Project No.	Implementing Agencies
<b>ESTONIA (ES01.09)</b>	CFCU
<b>LATVIA (LE01.07)</b>	CFCU
<b>LITHUANIA (LT01.16)</b>	CFCU
<b>POLAND (PL01.11)</b>	Implementing Authority for Phare Cross-Border Co-operation Programme

The National Fund will transfer funds to IAs, including the Central Financing and Contracting Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NFs and the IAs/CFCU where applicable. Each individual FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the CFCU/IA there will be no transfer of funds from the NF to the CFCU/IA. The CFCU and the IAs must each be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all the operations carried out by the relevant CFCU/IA.

A separate bank account, denominated in EUR will be opened and managed by the NF in a separate accounting system in the Central Bank or in a Bank agreed in advance with the Commission. In principle, all bank accounts will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be reinvested in the Programme. The same procedures will apply to any funds transferred to an IA or the CFCU.

The NAO and the PAOs will ensure that all contracts are being prepared in accordance with the procedures set out in the DIS Manual

All funds must be contracted by **15 November 2003**. All disbursements must be made by **15 November 2004**. 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.

## **5. MONITORING AND ASSESSMENT**

A Joint Monitoring Committee (JMC) will be established. It will include the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds.

The JMC will be assisted by Monitoring Sub-Committees (MSC) and will include the NAC, the PAO of each IA (and of the CFCU where applicable) and the Commission Services. The MSC will review in detail the progress of each programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultant (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring these are effected. The MSC will report to the JMC, to which it will submit overall detailed reports on all Phare financed programmes.”

## **6. ANTI-FRAUD-MEASURES, AUDIT AND EVALUATION**

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 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 can conduct check-ups and inspections on site in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96 dated from November 11, 1996, concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.

Commission Regulation (EC) N° 1681/94 of 12/07/1994 and the procedures foreseen in Art. 15 para 3 of Commission Regulation No. 2222/2000 dated from June 7, 2000, on the communication in case of irregularities and the putting in place of a system to administrate the information in this field shall apply. 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.”

## **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 at the Annex "Visibility/Publicity".

## **8. SPECIAL CONDITIONS**

In the event that agreed commitments are not met for reasons which are within the control of the government concerned, the Commission may review the programme with a view, at the Commission's discretion, to cancelling all or part of it and/or to reallocate unused funds for other purposes consistent with the objectives of the Phare programme.