

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 9916
<u>Title:</u>	LITHUANIA - <i>Special Action in Favour of the Baltic Sea Region Programme in 1999</i>
<u>Duration:</u>	Until 15/12/2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of € 3 million 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 15/12/2001 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 15/12/2002. 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
Naugarduko 10
2001 Vilnius, Lithuania

Tel. +370-2-31 31 91
Fax: +370-2-31 31 92

for THE RECIPIENT:

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.

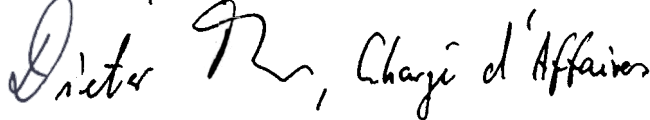
The Annexes shall be deemed an integral part of this Memorandum

Done at Vilnius,
Date ...1999...12...23



for **THE RECIPIENT**
Minister of Foreign Affairs
Algirdas SAUDARGAS

Done at Vilnius,
Date ...23/12/99...



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	Visibility and Publicity

SPECIAL PROVISIONS (ANNEX C)

1. DESCRIPTION OF PROJECTS

The following three priority areas will be addressed:

- Infrastructure investment in environment;
- Infrastructure investment in transport;
- Small-scale actions involving local authorities and non-governmental organisations at the “people to people” and “region to region” level.

The eligible regions for Phare funding are the whole territory of Estonia, Latvia, Lithuania and the three Baltic voivodships of Poland: Zachodino-Pomorskie; Pomorskie; Warminsko-Moezurskie.

1.1 Estonia – ES.99.11 Expansion of the Kuressaare Water and Sewage Network

Kuressaare is the capital township of the island county of Saaremaa. Currently, only 65% of its 16,200-strong population is linked to the central sewage system, and only about 83% receive water through the public water system. The methods of sewage relief lead to pollution, the water taken from ground wells is not potable. Through the project, the ratio of the population linked to the sewage system will rise to 91%, that of water consumers even to 95%.

The project comprises the construction of 20 kilometres of sewage pipelines with associated chambers and pumping stations. Apart from these new pipelines, a further four kilometres will be restored. For the supply of fresh water, 10 kilometres of supply pipelines will be built.

This project is an extension of an ongoing multi-annual project to improve the degraded and incomplete water and waste water systems of Kuressaare under the Small Municipalities Environmental Programme (SMEP). SMEP is led by the EBRD and receives co-funding from the Estonian State under the Public Investment Programme, by the Estonian Environmental Fund, NEFCO (the Nordic Environment Finance Corporation) and the four Nordic countries S, FIN, DK and N. Also PHARE (national programme) contributed towards the funding of projects under this programme.

Conditionality

- Environmental assessment to be provided by Kuressaare Municipality in late 1999.
- Co-financing via national budget to be ensured.

1.2 Latvia - LE.99.13 Development of sewerage services in the Talsi Municipality

Latvia requires large amounts of investment into the waste water sector, to meet the standards of the EC water directives. Talsi is one of the Latvian provincial towns in which the local sewerage system needs to be rehabilitated and expanded to ensure the implementation of the EU environmental acquis. Although land-locked, Talsi's waste water makes its way into the Baltic Sea, mainly by way of the Stende river.

The proposed project represents the third component of an overall project to address the waste water problems of Talsi, a township with nearly 13,000 inhabitants. Whereas the first and second components (improvement of the water supply through the improvement of water intake wells and institutional strengthening) have been funded from the State Public Investment Programme and 1998-2000 Talsi municipal budget as well as NEFCO, respectively, the third component requires a larger scale of support by the PHARE programme. This component consists of the establishment of a new waste water treatment plant, of a sewage network including collector mains, house connections and manholes as well as waste water pumping stations and pressure pipelines.

National co-financing of the scale of 2.01 MEUR will be ensured from the Public Investment Programme and through NEFCO / Latvian Environmental Protection Fund loans.

Conditionality

- Political commitment to continue support of investment programmes for municipal infrastructure development;
- Development of project management capacity in the beneficiary institution;
- In parallel to the project implementation, Latvia should develop approximation and implementation strategies for EU directives in water and waste water sectors.

1.3 LITHUANIA – LI 9916 Panemune Border Crossing Point

Panemune lies on the A12 trunk road, linking Siauliai and Taurage with Sovetsk (Tilsit) in the Kaliningrad Oblast, which also makes up a branch of TEN Corridors I and IX. The present border post lies in the middle of the village of Panemune, disrupting village and agricultural life as well as impeding the exercise of efficient security and customs duty controls. The project consists of constructing a new Border Control Post on the outskirts of the village, designed to modern operating standards as advised by EU experts, and of dismantling the old one. It will also help to facilitate traffic flows into and out of the Kaliningrad Oblast, benefiting trade and economic development in this part of the Russian Federation.

The project will be contracted as a single design and construction contract. 3 M€ will be contributed from the 2000 State budget, subject to the allocation of sufficient national funds under the National Investment Programme 2000-2005. The project is part of the National Programme on the Development of the Infrastructure of National Border Control Posts. Technically, the project is mature for tendering at the end of 1999.

Conditionality

- It needs to be ensured that the project be agreed with all parties involved, i.e. the Ministries of Finance, Transport, the Border Police Department, and the former Ministry of Construction and Urban Development, now within the Ministry of Environment.
- Allocation of sufficient national funds to comply with the co-financing requirements.
- Establishment of a Steering Committee which will be composed of the representatives of all the responsible authorities, in particular those having to provide authorisations/permissions and the final access of the infrastructure.

1.4 Poland – PL.99.17 Extension of the sewage system in the Municipality of Ploty

Ploty is the last missing area in a multi-year programme to improve the waste water situation in the basin of the river Rega. The current project is the continuation of a project in the Cross Border Co-operation Programme in the Baltic Sea Region 1997. It covers the extension of the sewage canalisation within the town and deals with the connection of the surrounding villages of Karczewie and Słudwia. By the end of the project 95% of the town will be linked directly. Completion of this project will finally stop sewage flowing directly into the Rega river and also save the cost of sewage transportation by road for processing elsewhere. The project will thus further reduce pollution levels in the Baltic Sea.

The financial component from Phare 1999 is for extension of the sewer network, together with the purchase of the equipment indispensable for its operation (for cleaning, maintenance, etc.) and for the supply and instalment of electrical and automatic installations on the newly constructed waste water treatment plant. The Municipality of Ploty will be the beneficiary and the body responsible for project execution. The national co-financing element will consist of 740,000€.

Conditionality:

- Customers' fees will be established on level required to cover operating costs of the sewage treatment plant,
- Beneficiary will employ qualified staff able to execute the project.
- Sufficient funds must be allocated by the beneficiary to co-finance the project.

1.5 Small Project Funds

The Small Project Funds will support small projects of a “people to people” and “region to region” nature involving authorities at local and regional levels as well as non-governmental organisations. The projects must have a cross border impact as well as contributing towards EU accession preparation. Projects must involve at least two partners; one of which must be from the eligible Phare regions as indicated under Point 4, the other partners have to be from either an EU Member State in the Region or from an eligible territory in another Phare partner country. Projects meeting this criterion may further involve bordering regions in Russia; possible EU funding for actions in Russian territory will however have to be provided from the TACIS programme.

The specific objectives of the Small Project Funds in the Phare countries of the Baltic Sea Region include support for actions aimed at local and regional socio-economic development, the support of educational activities for institutions and individuals involved in local/regional development, the support for developing skills in the field

of local and regional government and in organisations of public interest and the development of cultural and youth co-operation.

The Small Project Funds shall be implemented in accordance with the “General Guidelines for Small Projects Funds” adopted by the Commission Services in December 1996, to which the following precisions or adjustments shall apply:

1. The minimum co-financing contribution of the beneficiary shall be 20%;
2. The maximum PHARE support per project of 50.000 EUR may be raised to a maximum of 300.000 EUR; however, projects of more than 50.000 EUR require ex-ante approval from the Commission Services.
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.

In accordance with the General Guidelines, each country has to establish the structures to implement its Small Project Fund, 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 Project Fund 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.

2. BUDGET (in million EUR)

Country / Project No.	Project	TOTAL COST of projects/Funds *)	Phare contribution	Investment	Institution building
ESTONIA ES9911.01	Expansion of Kuressare water and sewage network	2.67	2.0	2.0	0
ES9911.2	Small Project Fund	1.2	1.0		1.0
LATVIA LE99.13.01	Development of sewage services in the Talsi municipality	4.01	2.0	2.0	0
LE9913.02	Small Project Fund	1.2	1.0		1.0
LITHUANIA LI9916.01	Panemune Border Crossing Point	5.0	2.0	2.0	0
LI9916.02	Small Project Fund	1.2	1.0		1.0
POLAND PL9917.01	Construction of Waste Water Treatment Plant and Complex Extension of the sewage system in the Municipality of Ploty	2.74	2.0	2.0	0
PL99.17.02	Small Project Fund	1.2	1.0		1.0
TOTAL		19.22	12.0	8.0	4.0

*) Takes account of national and IFI co-financing. In the case of the Small Project Funds, figures contain indicatively 20% minimum co-financing by beneficiary.

3. Implementation Arrangements

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedure. The National Aid Coordinator (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 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 reporting to the European Commission. Appropriate financial control shall be carried out by the competent National Control authority with respect to the implementation of the programme.

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and each of the Ministries of Finance¹. 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 by the EC to the NF following signature of the Financing Memorandum and the Financing Agreement between the NF and the Implementing Agency. 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 PAO's and a description of the system put in place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function will be carried out.

Four Replenishments will be made of up to 20% of the funds to be managed locally or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 10% of the budget has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the IAs exceeds 10% of the total budget in force of the commitment. Exceptionally the NAO may request an advance payment of more than 20% in accordance with the procedures laid down in the aforesaid Memorandum of Understanding.

The Implementing Agencies will be responsible as follows:

¹ Estonia: 2 December 1998
Latvia: 2 December 1998
Lithuania: 10 December 1998
Poland: 24 December 1998

Country / Project No.	Project/Small Project Fund	Implementing Agencies
ESTONIA ES9911.01	Expansion of Kuressare water and sewage network	CFCU
ES9911.02	Small Project Fund	CFCU
LATVIA LE9913.01	Development of sewage services in the Tal municipality	Ministry for Environmental Protection and Regional Development
LE9913.02	Small Project Fund	CFCU
LITHUANIA LI9916.01	Panemune Border Crossing Point	CFCU
LI9916.02	Small Project Fund	CFCU
POLAND PL9917.01	Construction of Waste Water Treatment Plant and Complex Extension of the sewage system in the Municipality of Ploty	Implementing Authority for Phare Cross-Border Co-operation Programme
PL9917.02	Small Project Fund	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 be prepared in accordance with the procedures set out in the DIS Manual. All contracts for investment infrastructure projects will be greater than € 2 million, except those in the Small Project Funds.

All funds must be contracted by **15 December 2001**. All disbursements must be made by **15 December 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 in each beneficiary country. It will include the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all Phare funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the re-allocation of Phare funds.

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

5. Audit and Evaluation

The accounts and operations of the National Funds, and, where applicable, the CFCUs 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 Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement concluded with each beneficiary country.

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 in each beneficiary country. Further details are at the Annex 'Visibility/Publicity'.

7. Special conditions

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