

## 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 **Poland**, 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 **31 May 1990** 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>	<b>PL0015.</b>
<u>Title</u>	<b>Cross Border Co-operation Poland</b>
<u>Duration</u>	<b>Until 15<sup>st</sup> December 2002.</b>

### ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of **2.0 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<sup>st</sup> December 2002** 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<sup>st</sup> December 2003**. 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 in Poland  
Al. Ujazdowskie 14  
PL-00478 Warsaw  
Poland  
Fax: (+48-22) 625 04 30

**for THE RECIPIENT:**

**Ministry of Internal Affairs and Administration**  
ul.Stefana Batorego 5  
PL-02-591  
Warsaw  
Fax: (+48-22) 661.89.66

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 .....  
Date: .....

Done at .....  
Date: .....

for THE RECIPIENT

for THE COMMUNITY

Minister Biernacki  
Ministry of the Interior and  
Administration, Poland

Mr. Bruno Dethomas  
Head of the Delegation of the  
European Commission in Poland

Annex 1      Framework Agreement (Annexes A & B)  
Annex 2      Special Provisions (Annex C)

## 1. OBJECTIVES AND DESCRIPTION OF PROJECTS

All of the projects chosen this year cover waste water treatments and therefore, where applicable, compliance with the Urban Waste Water Treatment directive (91/271/EEC as amended by Directive 98/15/EEC) and related decision 93/48/EEC and the Sewage Sludge Directive 86/278/EEC will be ensured. Furthermore, an environmental impact assessment according to the EU Environmental Impact Assessment Directive (85/337/EEC as amended by 97/11/EC) will be carried out for all investment projects where applicable and according to this directive. Where required according to the Environmental Impact Assessment Directive (85/337/EEC as amended by 97/11/EC) the project will be assessed according to the directive. A confirmation is to be provided that

- no Environmentally Sensitive Areas are affected.
- the project contributes to the requirements of the relevant EU Environmental Directives with particular attention to the requirements of the EU Directives on water protection legislation and sewage sludge Directive 86/278/EEC.
- the project is part of an implementation plan for the specific directive.

Additionally, a commitment will be obtained that the additional necessary steps for full compliance with the relevant directives will be taken.

### 1.1 Estonia – ES0013 *Expansion/Rehabilitation of Rakvere Water and Sewage System*

Rakvere town is situated in north of Estonia at the Pandivere National Water Protection Area, 20 km from the Gulf of Finland. Rakvere is the administrative, economic and cultural centre of Lääne-Viru County and is the biggest settlement in the territory of the Pandivere State Water Protection Area, which is the most extensive region of karst landscape in Estonia. This project provides additional funding for the comprehensive waste and drinking water provision scheme for Rakvere and the surrounding settlements of Piira, Lepna, Ussimae, Torma and Torremae. Funding from several sources, notably the EBRD, national Phare and Estonian national resources, covers the scheme.

The Phare grant may be used to purchase the necessary water treatment equipment, extensive pipelines and for covering the costs of the linking and building works.

#### Conditionality

- Co-financing commitment confirmed by all the partners before the signing of the financing memorandum and subsequent actual disbursement

### 1.2 Latvia - LE0005 *Development of Sewage Services in Aizpute and Grobina*

Aizpute municipality is a town of 6.082 inhabitants situated 172 km to the west from Riga. Grobiņa municipality is a town of 4.647 inhabitants situated approximately 190 km to the Southwest of Riga. Both Water Services Development Projects are included in the Public Investment Programme and State Programme - Development of Water Services in Latvian Small and Medium Sized Towns. The existing infrastructure requires to be modernised, extended and upgraded.

The proposed short-term investment programme in Aizpute includes general rehabilitation and extension of existing water supply and sewerage facilities and construction of new

wastewater and drinking water treatment plants. A Feasibility Study financed by local sources was prepared already in December 1998.

The proposed short-term investment programme in Grobiņa includes general rehabilitation and extension of existing water supply and sewerage facilities and construction of new pumping station and new pressure pipe from Grobiņa to Liepāja wastewater treatment plant. A Comprehensive Feasibility Study financed by Danish Environmental Protection Agency (DEPA) is in the course of finalisation.

#### **Conditionality**

- Political commitment to continue support of investment programmes for municipal infrastructure development to ensure sustainability;
- Co-financing commitment to be assured.
- In parallel to the project implementation, Latvia should continue to pursue approximation and implementation strategies for EU directives in water and waste water sectors.
- A comprehensive waste water development plan to be developed and submitted to the Commission

### **1.3 Lithuania – LI0015 *Prienai regional water supply and sewerage network expansion and renovation***

Currently in Prienai town, having the population of 12 thousand inhabitants, there are 38 km of water supply and 36 km of sewerage collection networks, covering 29% of the city. 100% of the drinking water in Prienai originates from the groundwater sources. Prienai town has 1 watering-place (water catchment area) under operation. Drinking water resources of the town are 1500 cu.m per day. With the expansion of the Prienai town, it is necessary to connect new inhabitants to the existing system. Currently some 8 thousand of population consume drinking water, abstracted from private shallow wells, which can easily be contaminated and thereby pose serious health risks.

Another problem with the drinking water is related to its quality which needs to be brought up to EU requirements.

In addition to the water supply, the sewerage collection problems needs to be solved in the region. At present, the collected wastewater is turned to the Prienai mechanical treatment plant, designed and build more than 30 years ago. The equipment of the existing plant is worn out technically and technologically. Plant capacities are insufficient and the purification effect for elimination of suspended solids reaches 10-20% only.

In 1990, the Council of Prienai Municipality decided to design and build a sewage pumping station and pressure pipeline in order to turn the collected sewage to the Birstonas biological treatment plant, commissioned in 1999.

The design of the pumping station and the pressure pipeline was completed but work could not advance owing to lack of funds. This design was then updated and a feasibility study carried out in 1996, aiming at analyzing the possibility for supplying drinking water and collecting sewage from the new living areas of the town. The study outlined three main project stages.

The initial phases are being financed by national and other resources. The Phare contribution covers the final phase – the construction works for the expansion and renovation of the water supply and sewerage collection networks, connecting additional 4500 subscribers to the system.

#### **Conditionality**

- Allocation of sufficient national funds to comply with the co-financing requirements.
- Careful reported control of the project scheduling to ensure that the Phare contribution can be used in good time.

#### **1.4 Poland – PL0015 *Modernization of the sewage treatment plant in Krynica Morska and development of the sewage system in the Vistula Spit***

This project is a comprehensive solution for waste water management in the Vistula Spit. It is the last longer section of the Polish Baltic Sea coast and Vistula Lagoon without a modern sewage treatment plant.

Currently the untreated waste water is discharged immediately into the Vistula Lagoon. Realization of the project will result in the sewage treatment meeting the EU requirements.

The erection of the full sewage treatment plant together with construction of the appropriate sanitary intercepting sewers as well as neutralization of biogenic compounds and hygienic improvement of sludges will decisively reduce pollution of the Vistula Lagoon and Baltic Sea waters.

The financial means within the PHARE CBC 1996 programme were granted for the first stage of modernization of the sewage treatment plant in Krynica Morska.

This current project follows on and extends the 1996 project so as to complete all investments for sewage treatment in this region.

The project consists of three phases. Own resources will cover the preparation of tender documents and input of the Contract Engineer. The Phare grant will partly cover the cost of the second phase which concerns the construction works for the sewage treatment plant in Krynica Morska and sewage systems in the villages of: Przebrno, Kąty Rybackie, Sztutowo, Jantar, Drewnica and Płonina together with the gravity and pressure intercepting sewers. Own funding then completes the projects with the necessary machines and equipment for the sewage treatment plant and pumping stations.

##### **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 are allocated by the beneficiary to co-finance the project.

#### **2. BUDGET (in million EUR)**

Sub-Programme	Sub-Programme number	Investment	IB	Total
Sub-Programme ES	ES0013	2	0	2
Sub-Programme LV	LE0005	2	0	2
Sub-Programme LT	LI0015	2	0	2
Sub-Programme PL	PL0015	2	0	2
Total		8	0	8

##### **List of projects:**

Project number	Project Title
<b>Sub-Programme EE</b>	
ES0013	Rakvere water and sewage scheme
<b>Sub-Programme LV</b>	
LE0005	Development of Sewage Services in <b>Aizpute and Grobina</b>
<b>Sub-Programme LT</b>	
LI0015	<b>Prienai</b> regional water supply and sewerage network expansion and

	renovation
<b>Sub-Programme PL</b>	
PL0015	Modernization of the sewage treatment plant in Krynica Morska and development of the sanitary sewage system in the Vistula Spit

### 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 Finance<sup>1</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 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:

Country / Project No.	Project/Small Project Fund	Implementing Agencies
<b>ESTONIA</b> ES0013	Rakvere water and sewage scheme	CFCU
<b>LATVIA</b> LE0005	Development of Sewage Services in <b>Aizpute and Grobina</b>	Ministry for Environmental Protection and Regional Development
<b>LITHUANI A</b> LI0015	<b>Prienai</b> regional water supply and sewerage network expansion and renovation	CFCU

<sup>1</sup> Estonia: 2 December 1998  
Latvia: 2 December 1998  
Lithuania: 10 December 1998  
Poland: 24 December 1998

<b>POLAND</b> PL0015	Modernization of the sewage treatment plant in Krynica Morska and development of the sanitary sewage system in the Vistula Spit	Implementing Authority for Phare Cross-Border Co-operation Programme
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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<sup>th</sup> December 2002**. All disbursements must be made by **15<sup>th</sup> December 2003**. 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.