

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>	PL0014.
<u>Title</u>	Phare 2000 Special Action in Favour of the Baltic Sea Region Poland
<u>Duration</u>	Until 15st December 2002.

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of **1.0 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 **15st 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 **15st 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

This Financing Proposal is exclusively concerned with small-scale actions. The eligible regions for Phare funding are the whole territory of Estonia, Latvia, Lithuania and the following voivodships of Poland: Zachodnio-Pomorskie; Pomorskie; Warminsko-Mazurskie and Podlaskie.

Small Project Funds - SPF - ES0012/LE0004/LI0014/PL0014

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 above, 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 in so far as funding for the Russian partner can be provided outside Phare, by the TACIS programme or other source. Project selection criteria are to be developed which place a special emphasis on co-operation with EU Member States – and following the structures and approach developed for the 1999 allocation for which calls for proposals are launched – including complementary support for Interreg IIIB projects where appropriate.

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. Interreg IIIB actions are also eligible such as for example spatial development strategies, access to innovation especially for urban networks, promotion of inter-modal transport, better use of information technology or promotion of maritime co-operation etc.

Encouragement in the selection process will be given to projects which contribute to the development of civil society including NGO participation and also where environmental issues play a significant part.

The Small Project Funds shall be implemented in accordance with the DIS 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.
4. The Co-ordination of the actions of the four SPFs is to be carried out in the BJC Working Group set up under the BJC at its meeting of 17th April 2000.

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. The Phare contribution may finance indirect (overhead) costs of the SPF Secretariat up to 7% of total amount of direct eligible costs.

The arrangements established for the Phare 1999 programme may be continued through to the Phare 2000 programme if all parties find this acceptable – and notably guided by the steering of the programme through the Working Group of the Baltic Joint Committee (in which Member States, Candidate Countries and European Commission are statutory members) established for overseeing the project selections within allocation of Phare funding for CBC in the Baltic Sea Region.

2. BUDGET (in million EUR)

Country / Project No.	TOTAL AMOUNT OF SMALL PROJECT FUNDS *)	Phare contribution
ESTONIA ES0012	1.2	1.0
LATVIA LE0004	1.2	1.0
LITHUANIA LI0014	1.2	1.0
POLAND PL0014	1.2	1.0
TOTAL	4.8	4.0

*) In the Small Project Funds, figures contain indicatively 20% minimum co-financing from the 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 in the countries will be responsible for the SPF as follows:

Country / Project No.	Implementing Agencies
ESTONIA ES0012	CFCU
LATVIA LE0004	CFCU
LITHUANIA LI0014	CFCU
POLAND PL0014	Implementing Authority for Phare Cross-Border Co-operation Programme

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

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 funds must be contracted by **15 December 2002**. All disbursements must be made by **15 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.