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 ESTONIA, 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: ES 9903 – ES 9906
Title: 1999 Estonia National Programme
Duration: Until 31/07/2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of € 7,2 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 31/07/2001 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 31/07/2002. 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
Kohtu 10
10130 Tallinn, Estonia
Tel.: +372-646 02 30
Fax: +372-646 02 39

for THE RECIPIENT:

Mr Siim KALLAS
Minister of Finance and National Aid Co-ordinator
Ministry of Finance
Suur-Ameerika Street 1
15006 Tallinn, Estonia
Tel.: +372-61 13 444
Fax: +372-63 17 810

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 Tallinn,
Date ________

for THE RECIPIENT
Minister of Finance
Mr Siim KALLAS

for THE COMMUNITY
Head of EC Delegation in Estonia
Mr Arhi PALOSUO

Annex 1 Framework Agreement (Annexes A & B)
Annex 2 Special Provisions (Annex C)
Annex 3 Visibility and Publicity
SPECIAL PROVISIONS (ANNEX C)

1. OBJECTIVES AND DESCRIPTION

OBJECTIVE 1 REINFORCEMENT OF THE INSTITUTIONAL AND ADMINISTRATIVE CAPACITY

ES 9903 REINFORCEMENT OF THE INSTITUTIONAL AND ADMINISTRATIVE CAPACITY OF REGULATORY BODIES UNDER SUPERVISION OF THE MINISTRY OF ECONOMIC AFFAIRS

The capacity of the Estonian public administration to implement the legislative and administrative reforms necessary for the process of European integration is identified by the Accession Partnership as a crucial factor in the preparations for EU-membership. The institution building and training priorities outlined below have been selected on the basis of the priorities set out in the Accession Partnership and the NPAA while taking into account the needs already covered by means of ongoing Phare programmes from previous years. The needs for institutional and administrative capacity building in the occupational health and safety area will be addressed within the specific sector programme.

ES 9903.01: National Metrology and Accreditation Centre

- To improve the organisational efficiency and effectiveness of the National Metrology and Accreditation Centre, which will be established in early 1999, in order to assume new or amended functions towards EU membership.
- The project should help to identify strategic objectives for the next 3-5 years in the light of reforms needed for EU accession. It should also analyse in-depth the current status (competencies/infrastructures/needs) in the field of accreditation and metrology and identify the existing gaps. Finally, it should elaborate a medium term strategic development plan for the sector, including investment needs, provide advice on implementing a national strategy and identify the adequate staffing levels and training for the centre and in the various laboratories.
- To draw up specifications for equipment and identification of necessary accompanying measures (including training) for the operation of equipment, etc

Conditionalities:
The requested investment in equipment will be conditional on the results of the institution building phase and the recommendations of the twinning expert. The decision on potential investment should be taken at the end of the institution building phase.

ES 9903.02: Consumer Protection Board

- To improve the organisational efficiency and effectiveness of Consumer Protection Board, which will be the main beneficiary of the initiative, with special emphasis on
strengthening its market surveillance functions as required in EU internal market legislation.

- **To complete a 3-5 years strategy development plan** together with the evaluation of strengths and weaknesses of the current consumer protection programme. The Board recognises the need to acquire external expertise from the member states in applying best practise in order to achieve these medium term general objectives.

- **To elaborate an immediate assessment** of main strengths and weaknesses of the current consumer protection programme; including current staffing levels and training programmes.

- The project is also aimed at increasing consumer awareness, a more efficient settling of consumer complaints and the development of databases in this area. It should also reinforce the market surveillance function of the Board.

**Conditionalities:**

The project has to follow a logical sequence of activities: 1) the HRD strategy, MIS and internal procedures must follow the adoption of a corporate strategy; 2) the project training programme must follow the training needs assessment; and 3) testing equipment purchases must follow the identification of requirements.

**Es 9903.03: Patent Office and Patent Library**

- **To improve the efficiency and effectiveness of the Patent Office and Patent Library,** main target beneficiary of the initiative, to assume crucial functions with a view to EU membership. Other beneficiaries will be judges, customs officers, economic police and industry representatives.

- The project should help to analyse the current status (legal framework/ institutional set-up/ interaction of institutions/ customer satisfaction) in the field of industrial property, to evaluate the strengths and weaknesses of the industrial property protection in Estonia, to elaborate a medium term (3-5 year) strategic development plan for industrial property protection, to provide advice on implementing a national strategy and to identify the human resources development needs for staff in the Patent Office and Patent Library as well as for the other actors in the field (judges, members of the Board of Appeals, patent attorneys, customs officers, economic police and industry representatives).

- **To equip the Patent Office and Patent Library with electronic systems in order to fulfil the above-mentioned tasks as well as developing communication software to join the two electronic networks.**

**Conditionalities:**

- The requested investment in Information Technology solutions will be conditional to the results of the needs assessment on information systems development and recommendations of the twinning experts. The decision on potential investments should be taken not before 6 months after start of the project activities.
Reinforcement and institutional development of the regulatory, supervisory and surveillance capacities of the Ministry of Finance by establishing a unified supervisory authority (UFSA), training of officials responsible for implementing the strategy of consolidated supervision as well as in economic issues and EC legislation in this field.

Creation of a system to be used by investment firms and other financial institutions for reporting to UFSA, through the creation of an electronic database of market participants and potential insider trading.

Conditionalities
The Phare support is subject to Government agreement to implement the UFSA strategies. Also, in order to ensure the sustainability of the system established with Phare support, the Ministry of Finance commits itself to take the necessary steps and appropriate measures for staff development in order to fully benefit from the experience.

OBJECTIVE 2: JUSTICE AND HOME AFFAIRS

A key part of achieving economic and political stability is the establishment of an effective judicial and police system, equipped with the adequate instruments for combating corruption and organised crime including drugs trafficking. Thus, it is necessary to improve the quality of work at the crime scene, to enhance usage of effective methods and different tools for crime investigations and to make result of investigations more reliable and therefore more determinant in the Courts. Reiterating the objective of developing the Union into an “area of freedom, security and justice”, the new Amsterdam Treaty brings these matters, including the free movement of persons, asylum and immigration, into the Community’s sphere of competence, and preparations need to be taken by the candidate countries to fulfil the requirements.

DEVELOPMENT OF POLICE CRIMINALISTICS AND FORENSIC SCIENCE

To equip police laboratories with modern forensic technology, which will allow, inter alia to establish databases to exchange information with EU Member States. New equipment would include equipment for DNA identification, chemical and biological investigations, fingerprint investigation, photo development, etc…

Training of Estonian police experts in the use the new equipment and in using new methods for evidence examination in the laboratory.

Building of the quality system in the Center of Forensic Science according to ISO Guide 25, ISO 17025 and EN 45000.

Conditionalities

- Depending on the eventual equipment purchase, the Estonian side will provide both for staff to be trained and retained on a long term basis so as to make sure that 'know-how' transfer is not lost due to staff turnover.
- The Estonian government will guarantee adequate premises and operational running costs. The long-term use and development of the equipment support will be ensured through adequate budgetary allocations for the Estonian Police in keeping with the role and the level of the problems with which they are being faced.
OBJECTIVE 3: EMPLOYMENT AND SOCIAL AFFAIRS

ES 9906 DEVELOPMENT OF OCCUPATIONAL HEALTH AND SAFETY STRUCTURES

- The main objective of the project is to ensure a healthier working environment in Estonia, reducing the rate of work-related illnesses and accidents, and training the Labour Inspectorate in the areas of occupational health and equality issues.
- To support the Estonian Occupational Health Centre, with a view to establishing adequate regional Occupational Health Services, including the development of monitoring, evaluation and prevention systems.
- To ensure adequate involvement of social partners and the public in the improvement of the working environment.

Conditionalities:
Commitment from the Ministry of Social Affairs to provide sufficient staff for the management and implementation of the project. The project implementation will be subject to a written periodical assessment.

An environmental impact assessment will be carried out for all investment projects.
5. BUDGET

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<th>Estonia National Programme 1999</th>
<th>PHARE (€)</th>
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<td><strong>TOTAL</strong></td>
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Community programmes including 5th Framework Programme: MEUR 800,000 (committed under separate Financing Proposals)
6. IMPLEMENTATION ARRANGEMENTS

The programme will be managed in accordance with the Phare Decentralised Implementation System (DIS) Procedures. The National Aid Coordinator (NAC) will have overall responsibility for programming, monitoring and implementation of Phare programmes.

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

The Commission will transfer the funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and Estonia on 02.12.1998. 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 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 IAs/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 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/CFCU 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.

Twinning arrangements including long-term secondments are proposed under the following projects:
- ES 9903.01: Metrology and Accredidation Centre
- ES 9903.02: Consumer Protection Office
- ES 9903.03: Patent Office and Patent Library
- ES 9904: Ministry of Finance
- ES 9905: Ministry of Internal Affairs, Police Board, Centre for Forensic Science and Criminalistics
- ES 9906: Ministry of Social Affairs

Implementing Agencies will be responsible for sub-programmes as follows:
Central Financing and Contracting Unit (CFCU):
- Reinforcement of the institutional and administrative capacity of Regulatory and Surveillance bodies (ES 9903)
- Reinforcement of the institutional and administrative capacity of the financial sector (ES 9904)
- Development of police criminalistics and forensic sciences (ES 9905)
- Development of the occupational health and safety sector (ES 9906)
The National Fund will transfer funds to Implementing Agencies (IAs), including the Central Financing and Contracting Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NF 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 IA’s/CFCU there will be no transfer of funds from the NF to the IA’s/CFCU. The CFCU and the IAs will 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 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 prepared in accordance with the procedures set out in the DIS Manual (with the exception of twinning).

All contracts must be concluded by 31 July 2001. All disbursements must be made by 31 July 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 IAs/CFCU before the official closure of the programme. The IAs/CFCU assume 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 IA's/CFCU further assume 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.

7. 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) 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.
8. **AUDIT AND EVALUATION**

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.

9. **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 provided in the Annex on "Visibility/Publicity".

10. **SPECIAL CONDITIONS**

In the event that agreed commitments are not met for reasons which are within the control of the Government of Estonia, 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 global Phare programme.