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 12 December 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:

<table>
<thead>
<tr>
<th>Programme number:</th>
<th>2003/005-026</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title:</td>
<td>2003 Phare National Programme for Estonia- Second Part</td>
</tr>
<tr>
<td>Duration:</td>
<td>Until 30/11/2005</td>
</tr>
</tbody>
</table>

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 23,532,200 € 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 30/11/2005 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 execution of contracts of THE EC GRANT is 30/11/2006.
Execution of all contracts must end by the deadline for execution of contracts. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the contract execution period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry date for execution of contracts 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: 00 372 626 44 00
Fax: 00 372 626 44 39
E-mail: eudelest@delest.cec.eu.int

for THE RECIPIENT:

Mr Tonis Palts
Minister of Finance and National Aid Coordinator
Ministry of Finance
Suur-Ameerika 1
15006 Tallinn
Estonia
Tel: 00 372 61 13 444
Fax: 00 372 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 9/9/03

for THE RECIPIENT

for THE COMMUNITY

Encl.
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)
ANNEX C: SPECIAL CONDITIONS

1. Objectives and Description

The second part of the Phare 2003 programme for Estonia focuses on ten broad objectives and therefore complements the first part of the programme approved by Commission Decision on 3 April 2003. It is made up of 20 individual projects, for which a description is provided below.

Objective 1 Administrative capacity

Project 2003/005-026.01.01 Development of Structural Funds electronic information system

The purpose of this project is to strengthen the capacity of the Estonian administration for the implementation of Structural Funds. As a follow-up of a 2001 Phare project on the preparation for Structural Funds (SPP+), this new project concentrates on the establishment of an electronic information system for the monitoring of Structural Funds according to the requirements of Council regulation 1260/1999.

Phare assistance will be used to:

- Complete the development of a central information system in the Ministry of Finance for the use of the Managing and Paying authorities, and allowing the necessary exchange of information with the EC information system according to Council regulation 1260/1999 requirements.

- Develop specific software for the administration of EAGGF-Guidance and FIFG measures, in the Paying Agency, the Agricultural Registers and Information Board (ARIB).

- Assess the training needs, develop curricula and provide training to the users of both systems.

The project will be implemented through twinning light and technical assistance.

Tendering for the development of the central information system in the Ministry of Finance (contract 1) is conditional upon the results of the analysis currently on-going in the framework of the Phare 2001 SPP+ project, which will provide detailed requirements specifications and tendering documentation.

Tendering for the development of the specific software in ARIB (contract 4) is conditional upon the results of an IT audit to be approved by the EC Delegation.

The budget for contract 1 and 4 should be revised according to the results of these audits; any additional cost that might result from these studies will be borne by the national budget.

Project 2003/005-026.01.02 Project preparation facility for EU assistance

This project aims to support the technical preparation of Structural Funds projects upon Accession, thereby helping to build a project pipeline for Structural Funds. It should
also help to ensure an efficient implementation of current Pre-Accession assistance and may support the technical preparation of projects for the post-Accession facilities.

The project consists of two project preparation facilities:

- One for Structural Funds, which will be the continuation of a previous project pipeline for preparations of EU Structural Funds (2002 Phare SPP++ project), to be implemented as a grant scheme managed by Ministry of Finance according to PRAG rules;

- And another for Phare and the post-Accession Facilities, implemented through technical assistance.

Both will serve for the preparation of projects e.g gap and needs analysis, preparation of tender documentation and procurement plans, feasibility studies, environmental/strategic impact assessments, market studies, cost-benefit analyses, preparation of designs of grant schemes.

Following the outcome of the implementing agencies assessment undertaken by the EC Delegation on the basis of the Phare programming guide 2003, the implementation of the grant scheme (project preparation facility for structural funds) is conditional upon evidence that the recommendations of such an assessment have been addressed.

Objective 2  Public Sector Financial Management

Project 2003/005-026.02.01 Assistance to the Public Service Academy (PSA) to develop taxation training curriculum

The aim of this project is to develop the capacity of the Public Service Academy (PSA), an institution for applied higher education under the authority of the Ministry of Internal Affairs, to train future tax inspectors for the Estonian Tax Board, bringing their level of training to that in the present Member States.

This project will contribute to the creation of a chair on taxation within the College of Finance in the PSA. Phare funds will be used to develop curricula on various aspect of tax law (administration, VAT, income and property, etc.), as well as tax accounting and audit, and investigation of tax frauds. Activities will also include training of specialised lecturers and publication of teaching material.

The project will be implemented through twinning and technical assistance. It is conditional on the recruitment of the lecturers before the start of the project and their commitment to remain in their position for 5 years after completion of the project.

Objective 3  Trade – Internal Market

Project 2003/005-026.03.01 Development of testing facilities for implementation of market surveillance

The purpose of this project is to facilitate the implementation of efficient market surveillance of goods through the improvement of testing facilities in the essential areas regulated by EU New Approach Directives. This would cover inter alia safety of toys, electrical equipment and installations, gas appliances, lifts, boilers, pressure equipment
and vessels, non-automatic weighing instruments, etc. The project will be implemented through investment into laboratory equipment for market surveillance in these areas.

Phare funds will be used to procure and install relevant equipment, and provide on site training for its use in selected laboratories. The equipment will remain the propriety of the Estonian State (Estonian Technical Inspectorate and Estonian Health Inspectorate), and will be located within the selected public or public-owned laboratories under private law. For each laboratory, the use of equipment will be regulated by a specific contract with the market surveillance authorities. In any case, the equipment procured through this project should not be used for conformity assessment analyses.

The project is conditional upon full alignment of the legislation with the acquis in the specific sectors. The equipment list will be reviewed before implementation of the project in light of the market surveillance strategy resulting from the Phare 2000 market surveillance project.

Objective 4  Transport policy and administrative management

Project 2003/005-026.04.01 Further alignment with the railways acquis and strengthening administrative capacity to manage its implementation

This project will assist in the further alignment of the new Estonian Railways Act and secondary legislation to meet requirements stemming from the railway acquis, and in strengthening the administrative capacity of the regulatory and surveillance bodies in the field of railway transport in Estonia. The project should inter alia establish the fully compliant regulatory framework and implementing structures in the area of railway transport.

Phare funds will be used to review the legal framework in this area and to draft the necessary amendments/secondary measures; to review the institutional framework for implementing the acquis and to develop the administrative capacity through appropriate procedures and training of personnel. Technical supervisory equipment will be procured and installed and relevant staff trained for its use.

The project will be implemented through a twinning scheme and investment into the acquis. The project is in line with Estonian Competition Law, which is harmonised and in compliance with European Union regulations, and will not constitute state aid for the railways sector.

Objective 5  Justice and Home Affairs

Project 2003/005-026.05.01 Enhancing border control and development of border surveillance at Estonian eastern border

The purpose of this project is to increase the efficiency of the Estonian eastern border management, future EU external border with Russia, by providing infrastructure and equipment.

Phare assistance will support:

- Building and equipment of two Border Guards stations in Mustajõe and Luhamaa,
• Reconstruction and equipment of the Alajoé Border Guard station,

• Provision and installation of stationary and mobile surveillance devices at Ida-Viru and Kagu borders,

• Institution building for the Board of Border Guards, through analysis of Border Guards curricula and provision of specific training.

This project will be implemented through twinning light, technical assistance, as well as works and supply contracts for the investments.

The investments in the Border Guard Stations are conditional upon the completion of environmental impact assessments. In addition, landsites for Luhamaa and Mustajõe stations must be entered in the national land register before the start of the investments.

**Project 2003/005-026.05.02 Extension of the Estonian Automated Fingerprint Identification System**

The project will contribute to improving the capacity of the Estonian law enforcement agencies and immigration authorities to fight against crime and illegal immigration by improving fingerprint information gathering, management and exchange between national and international authorities and implementing the Eurodac system.

The project will finance the establishment of internationally compatible IT system for AFIS with a central system to which relevant law enforcement agencies and bodies will be interconnected. The system will store electronic data on asylum seekers necessary for participation in Eurodac. Also technical means for taking fingerprints (full booking stations, fixed and mobile quick check live scanners, etc.) will be procured to support electronic data transfer.

The project will be implemented through investment in IT equipment and fingerprints scanners, as well as training for the use of the equipment. Reconstruction works to accommodate the central system will be financed on national resources.

The project is conditional on the conclusion by all the authorities involved in the AFIS system of an agreement to determine the rights, access and use of the databases; within three months from the start of the project, the Estonian legislation should be reviewed to allow the exchange of fingerprint information with national and international authorities. Agencies involved will develop an operational plan for the use of AFIS equipment by the start of the project.

**Objective 6 Social Services**

**Project 2003/005-026.06.01: Implementation and further development of the national drug strategy**

In order to tackle the drug problem in Estonia, this project aims to improve the availability of drug-aid through a network of health care and social support services for drug treatment and rehabilitation. An outreach system will be established through NGOs active in this sector with Phare support.
Phare funds will be used to develop two treatment centres (for children in Ida-Virumaa and for adults in Harju), to establish a network of outreach work linked to the treatment and rehabilitation centres, and to procure equipment for the centres.

The project will be implemented through a twinning and investment (grants to selected NGOs) for the equipment.

Before the project starts, the following conditionalities should be met:

- Approval by the Government of the National Strategy on the Prevention of Drug Dependence 2012;
- Pre-selection of NGOs following an open and transparent competitive process;
- Decision on location of the low threshold centres and conclusion of formal agreements with the selected local authorities.

Objective 7 Agriculture

**Project 2003/005-026.07.01: Development of an IT system for the administration of EAGGF Guarantee section of the rural development measures**

In order to ensure an efficient administration of the measures foreseen in the Estonian Rural Development Plan, this project aims to reinforce the capacity of the Agricultural Registers and Information Board (ARIB) to implement and monitor the EAGGF-Guarantee rural development measures. Following an independent IT audit, Phare assistance will be used for software development for the administration and monitoring of the rural development measures, and training of the relevant staff of ARIB.

This project will be implemented through twinning light and technical assistance.

Tendering for the development of the specific software in ARIB (contract 3) is conditional upon the results of an IT audit to be approved by the EC Delegation. The budget for contract 3 should be revised according to the results of this audit; any additional cost that might result from this study will be borne by the national budget.

The Estonian authorities guarantee that necessary additional staff for the implementation of the Rural Development Plan will be recruited within the course of the project, according to the human resources development plan of ARIB.

**Project 2003/005-026.07.02 Development of an IT system for the administration of market regulation measures**

As a follow-up of an ongoing Phare 2001 project, this project will provide further assistance to the CAP Paying Agency, the Agricultural Registers and Information Board (ARIB), for the development of the necessary administrative systems for the management of the CAP market regulations mechanisms. Phare support will be provided to complete the development of IT systems for an electronic management of the main CAP schemes and training of the relevant staff of ARIB.

This institution building project will be implemented through twinning light, technical assistance/service contracts for software development and associated investment.
The Estonian authorities guarantee that necessary additional staff for the implementation of the CAP schemes will be recruited according to ARIB human resources development plan.

**Project 2003/005-026.07.03 Development of plant protection products analyses in the Estonian Control Centre of Plant Protection**

The aim of this project is to reinforce the capacity of the Estonian administration to implement the acquis regarding the control of active substances and quality of plant protection products, as well as residues of plant protection products.

Phare assistance will be provided for the procurement of laboratory equipment in the Control Centre of Plant Protection and training of relevant staff. The Estonian authorities will ensure that all maintenance costs of the equipment procured through Phare are funded from national resources.

This institution building project will be implemented through technical assistance/service contract and related investment.

**Project 2003/005-026.07.04 Upgrade of clinical veterinary medicine in Estonia**

In the framework of mutual recognition of diplomas, this project aims to ensure that the faculty of veterinary medicine of the Estonian Agricultural University conforms with the requirements of the acquis.

Phare support will be provided to develop curricula, teaching modules and retraining courses mainly on veterinary clinical medicine and animal welfare, as well as to procure related laboratory equipment. This project is therefore complementary to previous Phare 2001 assistance, which was focused on veterinary public health.

Provision of the laboratory equipment will be conditional upon preliminary renovation of the premises on national resources.

This project will be implemented through technical assistance and related investment.

**Objective 8 Forestry**

**Project 2003/005-026.08.01 Strengthening of forest management in Estonia**

The purpose of this project is to strengthen forest management in Estonia and to ensure compliance with the acquis in the field of forestry.

Phare support will be used to review the institutional and legal framework for the implementation of the forestry policy in Estonia, to develop an information system for monitoring sustainable forest management, to set up a specific administrative structure and to train the relevant forest specialists.

This project will be implemented through twinning and related investment. It is conditional upon a written agreement from all interested parties on the future common use of the IT management system.

**Objective 9 Environment**
Project 2003/005-026.09.01 Development of the national hydrometric network according to EU standards

This project will support the development of a hydrometric network in Estonia in order to improve the monitoring of surface water, thereby fulfilling the requirements of the Water Framework Directive (2000/60/EC) as regards surface water quantity objectives.

Phare funds will provide assistance for the development of the hydrometric network (software development and procurement of equipment), the assessment of the relevant institutional framework for the management of the network, as well as training of the corresponding staff within the Ministry of Environment.

The Ministry of Environment will ensure the maintenance and security of the equipment procured through Phare.

This institution building project will be implemented through twinning light, technical assistance and associated investments.

Project 2003/005-026.09.02 Development of the Estonian fuel quality management system

With the aim of reducing atmospheric pollution and controlling the quality of fuel sales, this project will help strengthening the capacity of the Estonian administration to perform fuel control for both environment and customs purposes, in application of the acquis.

Phare funds will be used to set up a fuel quality management system in the Estonian Environmental Research Centre (EERC). This includes the establishment of the necessary institutional framework and procedures, such as joint sampling and analyses schemes for all authorities involved in the control of fuel, the adequate training of staff of those institutions, as well as the provision of laboratory equipment and software for data management.

The fuel quality management system will be located at EERC, which has been selected as both national customs laboratory and national laboratory for fuel analyses. The equipment and analyses for customs purposes will be regulated pursuant to the agreement between EERC and the Estonian Customs Board of October 2002.

The provision of equipment is conditional upon a formal agreement of all stakeholders of the fuel quality monitoring system on the institutional set up and arrangements for the system, as well as on the technical specifications for the equipment. The premises for its location will be renovated on national resources before provision of equipment.

This project will be implemented through twinning and related investment.

Project 2003/005-026.09.03 Programme for strengthening the civil society and preparing for Accession by supporting NGOs in implementing the environmental acquis.

The project aims at increasing the role of civil society in the implementation of the environmental policy by strengthening NGOs acting in the field of environmental protection. Phare support should enable them to participate in joint activities at national and European level.
Phare funds will be used to train NGOs acting in the field of environmental protection to prepare and implement environmental projects, in particular in the context of Structural Funds. A grant scheme will be established to finance environment-related training, as well as national and local projects that support the implementation of the environmental acquis.

The project will be implemented through technical assistance for training and a grant scheme aimed at environmental NGOs. Modalities for technical implementation for the management of the grant scheme will be defined before implementation of contract 2.

Following the outcome of the implementing agencies assessment undertaken by the EC Delegation on the basis of the Phare programming guide 2003, the implementation of the grant scheme is conditional upon evidence that the recommendations of such an assessment have been addressed.

Objective 10 Economic and Social Cohesion

Project 2003/005.026.10.01 Development of the Tartu Science Park

In the context of the implementation of the Estonian innovation policy for the development of innovation-related infrastructure, the project will support the expansion of Tartu Science Park (TPS) incubation centre. Phare funds will be used for the renovation and construction of the premises of Tartu Science Park for the benefit of incubation companies.

The project will be implemented through technical assistance for the technical design of the building, and investment (works) for renovation and construction of TSP premises. The assets will be the property of the non-profit Tartu Science Park Foundation.

The project is conditional upon a commitment from the Estonian Government to ensure the financial sustainability of the TSP incubator.

Project 2003/005-026.10.02 Development of the Tallinn Technology Park

In the framework of the Estonian innovation policy for the development of innovation-related infrastructure, this project will provide assistance for the renovation of the Tallinn Technology Park (TTP) business incubator.

This project builds upon the experience of management of an existing incubator in TTP. In practice, funds will be used for the 2nd phase of renovation of a building physically connected to the present incubator premises (renovation, equipment and furnishing of one floor). Completion of this phase will increase the capacity of the incubator to 30-35 tenant companies. The incubator will be managed by the non-profit Tallinn Technology Park Foundation, future owner of the assets.

The project will be implemented through investment for the renovation works.

The project is conditional on the completion of the necessary administrative steps which are a prerequisite to the starting of activities (such as, creation of a Foundation managing the incubators, conclusion of EIA, recruitment of a project manager, etc.).
Project 2003/005-026.10.03 Support to energy efficiency investments in municipalities

In order to implement the objectives of the EU energy policy, the project purpose is to increase energy efficiency and to promote renewable energy resources by encouraging the use of environmentally sound, reliable technologies and renovation methods in local public facilities. The project will support the implementation of the Estonian Energy Efficiency Programme.

Phare funds will be made available to improve local energy infrastructure facilities in the country outside Tallinn city area, i.a for the renovation of the current “district heating” systems and insulation measures. The project consists in a grant scheme and supporting activities for the grant scheme that will be carried out through nationally financed service contracts.

Following the outcome of the implementing agencies assessment undertaken by the EC delegation on the basis of the Phare programming guide 2003, the implementation of the grant scheme is conditional upon evidence that the recommendations of such an assessment have been addressed.

Prior to the launch of the call for proposal for the grant scheme, and based on terms of reference approved by the EC Delegation, an expert analysis will be performed to develop well targeted guidelines for applicants, ensuring the support of economically, environmentally and financially viable projects.

Project 2003/005-026.10.04 External Border Initiative 2003

In order to foster good neighbourhood and cross-border relations between Estonia and Russia, Phare funds will be made available to support social and economic activities of a cross border nature at the future external border of the Union. The project aims to support preparations for the participation of Estonia in the future Interreg programme at the border with Russia, as well as pilot projects at the border area. In particular the project will:

- Prepare existing local cross-border structures for implementation of Interreg programme, thereby increasing the local absorption capacity for Interreg programmes at the external border;

- Create a project pipeline for the Interreg programme at the external border;

- Support pilot projects with a specific cross-border added value.

Close co-ordination with cross-border co-operation activities under Tacis-CBC will be ensured. Precise specifications for pilot projects will be devised consistently with the Interreg IIIIB programme.

The project will be implemented through technical assistance for the Institution Building component dedicated to the preparations for Interreg and a grant scheme to carry out the pilot projects foreseen.

The project will be subject to the following conditionalities:
- The Ministry of Internal Affairs will recruit a project manager and additional expertise through Technical Assistance for implementation of this project.

- The detailed implementation arrangements for the grant scheme will be worked out in 2003 and submitted to the approval of the EC delegation before implementation of contract 2.

- Following the outcome of the implementing agencies assessment undertaken by the EC delegation on the basis of the Phare programming guide 2003, the implementation of the grant scheme is conditional upon evidence that the recommendations of such an assessment have been addressed.

2. Budget

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<tr>
<th>Project Number</th>
<th>Project Name</th>
<th>IB</th>
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<th>Total Budget</th>
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<td>02</td>
<td>PUBLIC SECTOR FINANCIAL MANAGEMENT</td>
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<td>2003/005-026.02.01</td>
<td>Assistance to the Public service Academy to develop taxation training curriculum</td>
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<td>03</td>
<td>TRADE - INTERNAL MARKET</td>
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<td>2003/005-026.03.01</td>
<td>Development of testing facilities for implementation of market surveillance</td>
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<td>2003/005-026.04.01</td>
<td>Further alignment with the Railways Acquis and strengthening administrative capacity to manage its implementation</td>
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<td>05</td>
<td>JUSTICE AND HOME AFFAIRS</td>
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<td>2003/005-026.05.01</td>
<td>Enhancing border control and development of border surveillance at Estonian eastern Border</td>
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<td>SOCIAL SERVICES</td>
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<td>Implementation and further development of the national drug strategy</td>
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**Grand Total:** 7,288,730 16,938,970 24,227,660

(The figures in the budget table are indicative only)

**Government co-financing**

The programme is co-financed by the Estonian Government. The amounts that the Government will provide are specified in detail in the individual project fiches.

In accordance with the Phare Guidelines of 1999 and Revised Guidelines of 2002, all investment projects supported by Phare must receive co-financing from national public funds.

The Community contribution may amount to up to 75% of the total eligible\(^1\) public expenditure.

Co-financing for Institution Building projects is provided by the beneficiary bearing certain infrastructure and operational implementation costs, through financing the

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\(^{1}\) Taxes are not an element eligible for co-financing
human and other resources, required for effective and efficient absorption of PHARE assistance

3. Implementation Arrangements

a.) Financial and Project Management by the Candidate Country

The programme will be managed in accordance with the Phare Extended Decentralised Implementation System (EDIS) procedures as set down in the EDIS Accreditation Decision and the Agreement on the Implementation of EDIS (EDIS Implementation Agreement; EIA) concluded between Estonia and the Commission. Prior to the conclusion of said Agreement, implementation will exceptionally follow Phare Decentralised Implementation System (DIS) procedures. Extended Decentralisation will, however, apply from the date of accession at the latest.

The National Aid Co-ordinator (NAC) will have overall responsibility for programming and monitoring of Phare programmes. The National Authorising Officer (NAO) and the Project Authorising Officers (PAO) will ensure that the programmes are implemented in line with the procedures laid down in the EDIS Implementation Agreement and/or the DIS Manual as well as the other instructions of the Commission, and that all contracts required to implement the Financing Memorandum are awarded using the procedures and standard documents defined and most recently published by the European Commission for the implementation of External Actions. The NAC and the NAO shall be jointly responsible for co-ordination between Phare (including Phare CBC), ISPA and SAPARD as well as the Structural and Cohesion Funds.

The National Fund (NF) in the Ministry of Finance, headed by the NAO, will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. The NAO 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 reporting and project information system is functioning. This includes the responsibility of reporting all suspected and actual cases of fraud and irregularity. The NAO shall have the full overall accountability for the Phare funds of a programme until the closure of the programme.

b.) Project size

All projects will be greater than € 2 million, except those in the following areas: development of a structural funds electronic information system; development of a curriculum on taxation at the Public Service Academy; development of testing facilities for market surveillance; reinforcement of the administrative capacity in the railway field and further alignment with the acquis; further development of the national drug strategy; development of an IT system for the administration of the rural development measures; development of an IT system for the administration of the CAP market regulation


measures; development of plant protection product analyses in the Estonian control centre of plant protection; strengthening of forest management in Estonia; development of the national hydrometric network; programme for strengthening the civil society in implementing the environmental acquis; the development of the Tartu Science Park and the Tallinn Technology Park; external border initiative.

This is mostly due to the proportionality of resources in relation to the needs of the Estonian administration as well as to the nature of some projects, especially as regards institution building actions. Some very useful actions such as twinning, twinning lights, assistance to NGOs, project preparation fund, require a relatively low level of financing compared to the Phare threshold. Some of the investment projects (Structural Funds information system, IT system for CAP market regulation measures) are also follow-up of previous Phare projects, under which additional financing is available and has been considered when calculating the remaining financial needs. Regarding ESC investments in business incubators, following financial and economic analyses, a precautionary and step-by-step approach has been taken for some projects limiting the scope of the project to the best evaluated elements.

c.) Deadline for contracting and execution of contracts; programming deadline

All contracts must be concluded by 30 November 2005.

Execution of all contracts must end by 30 November 2006. Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted.

d.) Clearance of Accounts Procedure and Recovery of Funds

A clearance-of-accounts procedure in line with Art. 53 para 5 of the Financial Regulation\(^4\) and Art. 42 of the Implementing Rules to the Financial Regulation\(^5\) will be put in place.

Any proven irregularity or fraud\(^6\) discovered at any time during the implementation of the programme will lead to the recovery of funds by the Commission.

\(^5\) Commission Regulation 2342/2002 of 23 December 2002
\(^6\) As defined under number 8a (Audit and Anti-fraud Measures by the Candidate Countries) of this document
If the implementation of a measure appears not to justify either a part or the whole of the assistance allocated, the Commission is to conduct an appropriate examination of the case, in particular requesting the beneficiary country to submit its comments within a specified period of time and to correct any irregularity.

Following the examination referred to in the previous paragraph, the Commission may reduce, suspend or cancel assistance in respect of the measures concerned if the examination reveals irregularity, an improper combination of funds or a failure to comply with one of the conditions in the financing memorandum and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission’s approval has not been sought. Any reduction or cancellation of the assistance is to give rise to recovery of the sums paid.

Where the Commission considers that an irregularity has not been corrected or that all or part of an operation does not justify either all or part of the assistance granted to it, the Commission is to conduct a suitable examination of the case and request the beneficiary country to submit its comments within a specified period. After the examination, if the beneficiary country has undertaken no corrective measures, the Commission may:

(a) reduce or cancel any advance;

(b) cancel all or part of the assistance granted to the measure.

The Commission is to determine the size of a correction taking into account the nature of the irregularity and the extent of any failures in the management and control systems.

Any funds not used by the expiry date of the programme will be recovered by the Commission. A final written declaration with supporting documentation shall be issued by the NAO 2 months after all payments have been made, showing the total amount contracted and disbursed. A final bank reconciliation showing the existing balances in the NF/IA/CFCU shall also be enclosed.

Notwithstanding the recovery of unused and ineligible funds after expiry of the Financing Memorandum, a complementary recovery order may be issued after the final audit of the reliability and consistency of contracts and disbursements as well as their compliance with the provisions of the Financing Memorandum has been carried out, taking into account the independent opinion of the final audit.

The National Authorising Officer will ensure the reimbursement of any unused funds or any sum wrongly paid within sixty calendar days of the date of notification. If the NAO does not repay the amount due to the Community, the beneficiary country shall refund this amount to the Commission. Interest on account of late payments shall be charged on sums not repaid by applying the rules specified in the Financial Regulation governing the Community Budget.

e.) Financial Flows

The Commission will transfer funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and Estonia in December 1998 and modified in April 2003. Funds will be transferred following requests from the NAO
onto a separate bank account, denominated in €, which will be opened and managed by
the NF in the Central Bank or in a Bank agreed in advance with the Commission.

aa) Transfer of Funds to the National Fund

A first transfer of up to 20 % of the funds to be managed locally, representing pre-
financing will be sent 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 IA/CFCU and the
manner in which the payment function will be carried out.

Two further transfers of up to 30 % each of the funds to be managed locally will be
made. The second transfer will be triggered when 5 % of the budget has been disbursed
by the IAs and the CFCU. The third transfer may be requested when 35 % of the total
budget in force has been disbursed. A fourth transfer will be made when 70 % of the
total budget in force is disbursed and when all expenditure has been incurred (i.e. fully
contracted). No later than 2 months after all payments have been made the National
Fund will submit a final declaration of expenditure, which will trigger a balancing
operation of all transfers against final certified expenditure incurred, which at that point
will be equal to payments made (closure of expenditure).

Exceptionally the NAO may request payment of more than the percentages mentioned
above in accordance with the procedures laid down in the aforesaid Memorandum of
Understanding. Save for express prior authorisation from the Commission HQs, no
interim payments may be made if the trigger points mentioned above have not been
respected.

bb.) Transfer of Funds to the Implementing Agencies

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. Bank accounts for sub-
programmes shall be opened in the name of the relevant Implementing Agency/CFCU in
charge of the financial administration of the sub-programme in line with Art. 13 of the
MoU on the Establishment of the National Fund.

Under DIS, 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.

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7 as defined in Art. 81.1.b.i of the Financial Regulation
8 as defined in Art.105 of the Implementing Rules
For those contracts with funds retained for a warranty period extending 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. 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.

dd.) Interest

In principle, all bank accounts\(^9\) 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.

f.) Implementing Agencies will be responsible for sub-programmes as follows:

<table>
<thead>
<tr>
<th>Project number</th>
<th>Project Name and Description</th>
<th>Implementing Agency</th>
<th>Ministries and Authorities Under Financial Policy</th>
<th>Project Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003/005-026.01.01</td>
<td>Development of Structural Funds electronic information system</td>
<td>CFCU</td>
<td>Ministry of Finance – Foreign Financing Department Ministry of Agriculture - Agricultural Registers and Information Board (ARIB)</td>
<td>TL TA</td>
</tr>
<tr>
<td>2003/005-026.01.02</td>
<td>Project preparation facility for EU assistance</td>
<td>CFCU</td>
<td>Ministry of Finance</td>
<td>GS TA</td>
</tr>
<tr>
<td>2003/005-026.02.01</td>
<td>Assistance to the Public service Academy to develop taxation training curriculum</td>
<td>CFCU</td>
<td>Tax Board Public Service Academy</td>
<td>TW TA</td>
</tr>
<tr>
<td>2003/005-026.03.01</td>
<td>Development of testing facilities for implementation of market surveillance</td>
<td>CFCU</td>
<td>Ministry of Economic Affairs and Communications Health protection Inspectorate Technical Inspectorate</td>
<td>INV</td>
</tr>
<tr>
<td>2003/005-026.04.01</td>
<td>Further alignment with the Railways Acquis and strengthening administrative capacity to</td>
<td>CFCU</td>
<td>Ministry of Economic Affairs</td>
<td>TW INV</td>
</tr>
</tbody>
</table>

\(^9\) in particular, but not exclusively, accounts run by the NF, the CFCU and IAs
<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
<th>Funder</th>
<th>Ministry</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>026.04.01</td>
<td>manage its implementation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>026.05.01</td>
<td>Enhancing border control and development of border surveillance at Estonian eastern Border</td>
<td>CFCU</td>
<td>Ministry of Internal Affairs Board of Border Guards</td>
<td>TL INV</td>
</tr>
<tr>
<td>026.05.02</td>
<td>Extension of the Estonian Automated Fingerprint Identification System</td>
<td>CFCU</td>
<td>Ministry of Internal Affairs Police Board Police Forensic Service Center Board of Border Guards Citizenship and Migration Board</td>
<td>INV</td>
</tr>
<tr>
<td>026.06.01</td>
<td>Implementation and further development of the national drug strategy</td>
<td>CFCU</td>
<td>Ministry of Social Affairs</td>
<td>TW Grants</td>
</tr>
<tr>
<td>026.07.01</td>
<td>Development of an IT system for the Administration of EAGGF Guarantee section of the Rural development measures</td>
<td>CFCU</td>
<td>Ministry of Agriculture - Agricultural Registers and Information Board (ARIB)</td>
<td>TL TA</td>
</tr>
<tr>
<td>026.07.02</td>
<td>Development of an IT system for the administration of market regulation measures</td>
<td>CFCU</td>
<td>Ministry of Agriculture - Agricultural Registers and Information Board (ARIB)</td>
<td>TL TA INV</td>
</tr>
<tr>
<td>026.07.03</td>
<td>Development of plant protection products analyses in the Estonian Control Centre of Plant Protection</td>
<td>CFCU</td>
<td>Ministry of Agriculture-Control Center of Plant Protection (CCPP)</td>
<td>TA INV</td>
</tr>
<tr>
<td>026.07.04</td>
<td>Upgrade of clinical veterinary medicine in Estonia</td>
<td>CFCU</td>
<td>Ministry of Education and Research Faculty of Veterinary Medicine of Estonian Agricultural University</td>
<td>TA INV</td>
</tr>
<tr>
<td>026.08.01</td>
<td>Strengthening of forest management in Estonia</td>
<td>CFCU</td>
<td>Ministry of Environment</td>
<td>TW INV</td>
</tr>
<tr>
<td>026.09.01</td>
<td>Development of the national hydrometric network according to EU standards</td>
<td>CFCU</td>
<td>Ministry of Environment - Estonian Meteorological and Hydrological Institute (EMHI)</td>
<td>TL TA INV</td>
</tr>
<tr>
<td>2003/005-026.09.02</td>
<td>Development of the Estonian fuel quality management system</td>
<td>CFCU</td>
<td>Ministry of Environment – Estonian Environmental Research Center (EERC)</td>
<td>TW INV</td>
</tr>
<tr>
<td>2003/005-026.09.03</td>
<td>Programme for strengthening the civil society and preparing for Accession by supporting NGOs in implementing the environmental acquis</td>
<td>CFCU</td>
<td>Ministry of Environment – Environmental Investment Centre</td>
<td>GS TA</td>
</tr>
<tr>
<td>2003/005-026.10.01</td>
<td>Development of the Tartu Science Park</td>
<td>CFCU</td>
<td>Ministry of Economic affairs and Communications Foundation Enterprise Estonia</td>
<td>TA INV</td>
</tr>
<tr>
<td>2003/005-026.10.02</td>
<td>Development of the Tallinn Technology Park</td>
<td>CFCU</td>
<td>Ministry of Economic Affairs and Communications Foundation Enterprise Estonia</td>
<td>INV</td>
</tr>
<tr>
<td>2003/005-026.10.03</td>
<td>Support to energy efficiency investments in municipalities</td>
<td>CFCU</td>
<td>Ministry of Economic Affairs and Communications Foundation Enterprise Estonia</td>
<td>GS</td>
</tr>
<tr>
<td>2003/005-026.10.04</td>
<td>External Border Initiative</td>
<td>CFCU</td>
<td>Ministry of Internal Affairs</td>
<td>TA GS</td>
</tr>
</tbody>
</table>


g.) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive\(^{10}\) are fully applicable for all investment projects under PHARE. If the EIA-directive has not yet been fully transposed, the procedures should be similar to the ones established in the above-mentioned directive. If a project would fall within the scope of annex I or annex II of the EIA Directive, the carrying out of the EIA-procedure must be documented\(^{11}\).

If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive\(^{12}\) must be documented\(^{13}\).

All investment projects shall be carried out in compliance with the relevant Community environmental legislation. The Project Fiches will contain specific clauses on

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\(^{10}\) DIR 85/337/EEC; OJ L 175/40; 5.7.1985; as amended by DIR 97/11/EEC; OJ L 73/5; 14.3.1997

\(^{11}\) in Annex EIA to the corresponding investment project fiche

\(^{12}\) DIR 92/43/EEC; OJ 206/7; 22.7.1992

\(^{13}\) in Annex Nature Conservation to the corresponding investment project fiche
compliance with the relevant EU-legislation in the field of the environment according to the type of activity carried out under each investment project.

h.) Special rules for certain components for the programme

Twinning

The amounts earmarked for twinning projects will cover the eligible costs (as set down in the DIS instructions) for implementing the work plan agreed between the Member State and the Applicant Country. The eligible costs may include costs incurred by the selected Member State during the preparation of the twinning covenant in the period between signature of the Financing Memorandum and the final notification of the financing approval of the covenant.

Grant Schemes

For Grant Schemes in the field of Economic and Social Cohesion the precise implementation arrangements will be specified in the relevant project fiches in line with the following principles:

- The procedures and formats to be used in the implementation of the schemes and award of the grants will follow the provisions of the Practical Guide. In particular, due care will be given to the selection process of the beneficiary projects, which has to be done at technical level through selection committees composed of experts appointed by the authorities which are co-financing the schemes as well as by the relevant administrations and interest groups involved in the schemes.

- The competent PAO for the programme under which the grant scheme is financed has to retain his/her contractual and financial responsibility for the implementation of the schemes. In particular, the PAO has to formally approve the call for proposals, application forms, evaluation criteria, as well as the selection process and results. The PAO has also to sign the grant contracts with the beneficiaries and to ensure adequate monitoring and financial control under his/her authority and responsibility. With this reservation, the management of the schemes can be decentralised from the PAO to the appropriate bodies at sectoral or regional level.

- Prior to EDIS accreditation, the ex-ante approval of the Commission Delegation in Estonia will be required, in conformity with the provisions of chapter 6 of the Practical Guide (decentralised ex-ante control).

- The implementation of selected projects through provision of works, supplies and services, sub-contracted by the final beneficiaries of the individual grants, shall be subject to the procurement regulations in the Practical Guide.

- Following a positive assessment of the Implementing Agency's capacity to operationally and financially manage the schemes in a sound and efficient manner (cf. Section 11 and Annex 4 of the 2003 PHARE Programming Guide), the Commission Delegation may decide to waive its ex-ante approval of sub-contracting carried out by final beneficiaries of individual grants. The detailed provisions governing the role of the Delegation in the above mentioned sub-contracting phase will be specified, as appropriate, in the exchange of letters between the Delegation and the National Authorities following the above mentioned assessment exercise.
• Grant schemes will not involve projects for which PHARE contribution is more than € 2 million and less than € 50,000. This lower limit may be waived as a result of the above-mentioned assessment of the Implementing Agency's capacity of giving assurance of sound financial management. This lower limit is not applicable in the case of NGOs.

The financial commitments in Phare terms will be effected at the date of signature of the grant contracts by the competent PAO. The projects should be fully implemented before the expiry date for contract execution of the present Financing Memorandum.

4. Monitoring and Evaluation

Project implementation of this programme will be monitored through the Joint Monitoring Committee (JMC). It includes the NAO, the NAC and the Commission services. 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. Furthermore the JMC will review the progress of all pre-accession EU-funded assistance programmes once a year (PHARE, ISPA and SAPARD).

For the PHARE programme, the JMC will be assisted by Sectoral Monitoring Sub-Committees (SMSC) which will include the NAC, the PAO of each Implementing Agency (and of the CFCU where applicable) and the Commission Services. The SMSC will review in detail the progress of each programme, including its components and contracts, assembled by the JMC into suitable monitoring sectors. Each sector will be supervised by one SMSC on the basis of regular monitoring reports produced by the Implementing Agency, and interim evaluations undertaken by independent evaluators. The SMSC will put forward recommendations on aspects of management and design, ensuring these are effected. The SMSC will report to the JMC, to which it will submit overall detailed opinions on all Phare financed programmes in its sector.

The Commission services shall ensure that an ex-post evaluation is carried out after completion of the Programme.

5.) Audit and Anti-Fraud Measures

a.) By the Candidate Countries\textsuperscript{14}

Each year an audit plan and a summary of the findings of the audits carried out shall be sent to the Commission. Audit reports shall be at the disposal of the Commission.

Appropriate financial control shall be carried out by the competent national financial control authority with respect to the implementation of the programme.

Beneficiary countries shall ensure investigation and satisfactory treatment of suspected and actual cases of fraud and irregularity following national or Community controls.

Irregularity shall mean any infringement of a provision of national or Community law\textsuperscript{15}, this Financing Memorandum or ensuing contracts or resulting from an act or omission

\textsuperscript{14} in accordance with the rules set down in Art. 54 of the Financial Regulation

\textsuperscript{15}
by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.

Fraud shall mean any intentional act or omission relating to:

(i) the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities,

(ii) non-disclosure of information in violation of a specific obligation, with the same effect,

(iii) the misapplication of such funds for purposes other than those for which they are originally granted.

The national authorities shall ensure the functioning of a control and reporting mechanism equivalent to the one foreseen in Commission Regulation 1681/94.\(^{16}\)

In particular, all suspected and actual cases of fraud and irregularity as well as all measures related thereto taken by the national authority must be reported to the Commission services without delay. Should there be no suspected or actual cases of fraud and irregularity to report, the beneficiary country shall inform the Commission of this fact within two months following the end of each quarter.

b.) By the Commission

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 audits by the Court of Auditors. This includes on-the-spot checks and, as long as the Extended Decentralisation System is not yet applicable to the Implementing Agencies in the Candidate Country concerned, measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned.

In order to ensure efficient protection of the financial interests of the Community, the Commission may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96.\(^{17}\)

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.

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\(^{15}\) defined as the entirety of Community rules applicable between the Parties of the Financing Memorandum (for example the Europe Agreements, the Framework Agreement, the Memorandum of Understanding on the Establishment of the National Fund etc.).

\(^{16}\) OJ L 178; 12.7.94, p. 43-46

\(^{17}\) OJ L 292; 15.11.1996, p. 2-5
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. Further details are set down in the Annex “Visibility/Publicity”. (enclosed)

7. 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 Phare programme.