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 LATVIA 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: 2003/004-979-01-01 to 2003/004-979-08-04
Title: 2003 Phare National Programme for Latvia
Duration: Until 30 November 2005

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of €45,649,900 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 November 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 November 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
Jacob’s Barracks
Tornu 4, Block 1C
1050 Riga, Latvia
Telex: +371-732 72 50
Fax: +371-732 52 79

for THE RECIPIENT:

Government of Latvia
Mr. Valdis Dombrovskis, National Aid Co-ordinator
Minister of Finance
Ministry of Finance
Smilsu Street 1
LV-1919 Riga
Tel.: +371-709 5690
Fax: +371-709 5693

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 Riga
Date 19 -09- 2003
for THE RECIPIENT

[Signature]
Valdis DOMBROVSKIS
National Aid Co-ordinator
Minister of Finance

for THE COMMUNITY

[Signature]
Andrew RASBASH
Head of EC Delegation in Latvia

Annex 1  Framework Agreement (Annexes A & B)
Annex 2  Special Provisions (Annex C)
Annex 3  Visibility/Publicity (Annex D)
Special Provisions

1. OBJECTIVES, DESCRIPTION AND CONDITIONALITY

Objective 1: POLITICAL CRITERIA

2003/004-979-01-01 Promotion of Integration of Society in Latvia

To support the formation of a democratic civil society on the basis of common values such as democracy, rule of law, and respect for human rights, including the right of representatives of minorities to preserve their identity, the Latvian Government has adopted the National Programme "Integration of Society in Latvia". The main aim of this programme is to develop better co-ordination of the existing efforts aimed at integration of society, such as Latvian language training, naturalisation and reform of education as well as to establish the framework for new initiatives in this area.

The project is intended to be a follow-up activity, building upon achievements of previous Phare projects on society integration measures and Latvian language training. The proposed project is aimed at promoting the integration process in Latvia in particular through priority actions for the integration of non-citizens and ethnic minorities set out in the National Programme "Integration of Society in Latvia". The project consists of two components: 1. Support to the National Programme for Latvian Language Training, and 2. Implementation of the National programme "Integration of Society in Latvia". The project is conditional upon formal recognition of the Society Integration Foundation as an Implementing Agency before the start of the project.

2003/-004-979-01-02 Development and Strengthening of Civil Society

The project is a continuation of previous Phare funded activities to support NGOs and will build on the results achieved. The project will continue to support transnational macro-projects, local micro-projects and networking projects. Both micro- and macro-projects will at least consist of the following two components: an activity related component to support concrete actions implemented for the benefit of the sector or the target group and a capacity related component to provide training for the staff of the beneficiary civil society organisation. The training is to improve the operational capacity in terms of management, bookkeeping, fund raising capabilities etc. so as to contribute to the viability and sustainability of the organisation. The project is conditional upon formal recognition of the Society Integration Foundation as an Implementing Agency before the start of the project.

2003/-004-979-01-03 Development and Strengthening the Corruption Prevention and Combating Bureau

Twining LV/2003/JH/01

The project is designed to strengthen the newly established Corruption Prevention and Combating Bureau, which is to play a central role in abating corruption. Its tasks include the investigation of criminal cases related to corruption and the provision of operational activities. Specifically, the project is to strengthen the institutional capacity of the Anti-Corruption Office, inter alia, through training programmes for its officials, judges, prosecutors and State Revenue Service officials. The project also is to co-finance an integrated information network to detect public officials’ conflicts of interest and to improve the operational capacity of the office at large.

The project is conditional upon national co-financing and the integrated information network being in accordance with the Personal Data Protection Law when it will be in line with the acquis.
Objective 2: INTERNAL MARKET

2003/004-979-02-01 Market Surveillance and Pharmacovigilance Medicinal Products

Twinning LV/2003/EC/01

The aim of the project is to develop a market surveillance and pharmacovigilance system for human and veterinary medicinal products. It is designed to support the implementation of the Strategy to further develop the Latvian Market Surveillance and Vigilance System for Medicinal Products in accordance with the European Market Surveillance system. Based on the strategy the project is to develop and implement the unitary information system in the pharmaceutical sector, strengthen the capacity of the medicinal products market surveillance and vigilance monitoring institutions as well as to encourage health professionals to take an active part in the adverse drug reactions surveillance. The project is conditional upon co-financing via the national budget.

2003/004-979-02-02 Medical Devices (Market surveillance and Vigilance System)

Twinning LV/2003/EC/02

The project will assist the Ministry of Health including its subordinate institutions to put in place an effective operational market surveillance system for medical devices. This would include the strengthening of all market surveillance functions, such as monitoring of products placed on the market, corrective actions to establish conformity, complementary activities, medical devices vigilance system and administrative co-operation. Specifically, the project is to build on the strategy under approval by the Cabinet of Ministers and is designed to a) improve the Latvian legislation and strengthen the authority of market surveillance structures for medical devices including approbation of standards (nomenclature), b) develop the procedures to be followed with regard to market surveillance as well as training of personnel on market surveillance functions, and c) build the technical capacity market surveillance structures through equipment, information systems and data bases. The project also provides for a pilot project for involved institutions, medical devices users and economic operators. The project is conditional upon the approval of the strategy and co-financing via the national budget.

2003/-004-979-02-03 Market Surveillance in the Food Sector

Twinning Light LV/2003/EC/03

The project is to assist the Ministry of Agriculture, in particular related institutions such as the Food and Veterinary Service, to implement the control system of fresh fruit and vegetables marketing standards according to regulation 1148/2001, and to ensure proper functioning of the milk producers register and animal herds register according to EU Directives 64/432/EEC and 97/12/EC. The project will include the development of Guidebooks on control of marketing standards of fresh fruits and vegetables, relevant training of staff and equipment. With regard to the national animal register and herds register the project will support the development of an information exchange system ensuring proper functioning of the milk producers’ register as well as a pig recording system in line with EU legislation and provide for the relevant training and supply of IT equipment.

2003/-004-979-02-04 Intellectual and Industrial Property Rights

Twinning LV/2003/EC/04

The aim of the project is to strengthen the capacity of various institutions involved in the implementation and enforcement of legislation and to raise awareness and knowledge on intellectual and industrial property rights with enforcement authorities (judges, prosecutors, customs authorities and police), involved institutions, rights holders and others. Specifically,
with the help of the project the co-operation between various enforcement authorities will be analysed and recommendations for improvement elaborated as well as a strategy to develop an operational system for intellectual and industrial property rights protection; it will include training for each of the enforcement authorities in view of developing skills to co-operate with each other and to improve the capacity of intellectual property rights institutions to administer related rights. Moreover, the project is to provide for communication and information activities on the issue of intellectual and industrial property rights. The project also includes co-financing of a patent and trademark database.

**Objective 3 : AGRICULTURE**

**2003/-004-979-03-01 Market Administration System for Agricultural Products**

*Twinning LV/2003/AG/01*

The aim of the project is to establish an appropriate administration system of trade mechanisms and market intervention measures for agricultural products and non-Annex I goods. In particular, the project is designed to elaborate a horizontal model on administration of trade mechanisms; to elaborate a licensing system for milk, cereals and non-Annex I goods; a system for granting export refund for milk, cereals and non-Annex I goods as well as a system for market intervention measures for products concerned. The project also provides for investments, specifically for introduction of IT systems to administer the market and trade regulation system through hardware and appropriate software. The project is subject to the following conditionalities: Legal base for implementation of market regulation measures adopted; justification and extent of the supply component to be based on results by twinning expert’s evaluation of IT needs.

**2003/-004-979-03-02 Operation of the Land Parcel System**

As part of the implementation of the Common Agriculture Policy, the project builds on previous work done in this area and is to further improve the quality of the Integrated Administration and Control System. Specifically the project aims at upgrading and improving the operation of the Land Parcel System through the production of orthophotos of the territory of Latvia and provision of an update of the graphical part of the Land Parcel Register. The project is also to provide for the relevant equipment including for orthophotos and digitalisation. The project is conditional upon co-financing from the state budget as well as the results from Twinning LV/2001/IB-AG-01.

**Objective 4 : SOCIAL POLICY, EMPLOYMENT AND PUBLIC HEALTH**

**2003/-004-979-04-01 Employment Strategy (Infrastructure)**

The project aims at further improving the labour market system. It shall build on the results of the project “Employment Strategy (Institution Building)” co-financed under Phare 2002. Specifically, the project is to address the elaboration and putting in place of a labour market information system which will ensure effective analysis and exchange of labour market information, thus improving implementation of labour market policy and reducing unemployment. In particular, the project will result a) in developing capacity for labour market data analysis by further developing the system conceived under Phare 2002 and completing it thus improving provision of labour market statistics; b) the improvement of the information exchange system in the Latvian State Employment Service including completing provision of IT installations for its district and local offices and provision of training; c) the preparation for participation in the EURES network. The project provides for software and equipment. The project is conditional upon the completion of the concept of development of databases.
2003/-004-979-04-02 Co-ordination of Social Security Schemes

Twinning LV/2003/SO/01

The project will prepare the Latvian social security administration for the application and proper enforcement of the acquis which relates to regulating relationships among different national social security systems. Specifically, the project will strengthen the capacity of the staff involved and provide the software and data necessary for application of Regulations (EEC) Nos. 1408/71 and 574/72. This includes software for calculation of pensions, benefits and average costs for health care according to the afore-mentioned legislation, E-forms adapted to Latvian conditions for exchange of information among Member States and an appropriate data base in institutions involved. The project will also deal with the issue of confidentiality of social data on individuals. It will improve communication between institutions involved and their clients. Informative material on the Latvian social security system for migrant workers will be prepared.

2003/-004-979-04-03 Institutional Strengthening of the Public Health Agency

Twinning LV/2003/SO/02

The aim of the project is to strengthen the Public Health Agency on national and local level in accordance with the recommendations based on the findings of the Peer Review carried out in May 2002 as well as the Action Plan of January 2003 to implement the Peer Review. The project is designed a) to strengthen the professional capacity of specialists of the Public Health Agency with a focus on communicable diseases so as to apply methodology and standards in accordance with EU legislation and to result in good inter-institutional co-ordination at all levels; b) to co-finance a computerised network for epidemiological surveillance and control of communicable diseases; and c) to improve the technical capacity of the Public Health Agency in terms of appropriate equipment for the surveillance of communicable diseases, monitoring and response to health threats. The project is conditional upon co-financing from the national budget.

2003/-004-979-04-04 Eradication of Rabies among Wild Animals

Twinning Light LV/2003/SO/03

The aim of this project is to support Latvia in its efforts to control and eventually eradicate rabies by implementing and carrying out a vaccination programme for the wildlife population, in particular foxes in accordance with EU legislation. Specifically, the project is to review the current rabies eradication and control programme and make the necessary recommendations, if appropriate and provide appropriate training; and b) to co-finance the supply and distribution of baits for oral vaccination of wild animals using an effective methodology in compliance with Council Decision 90/638/EEC. The project is conditional upon co-financing from the state budget.

Objective 5 : ENERGY

2003/-004-979-05-01 Administration of the Oil Stock Reserve System

Twinning LV/2003/EY/01

The aim of the project is to improve the oil stock reserve information system in accordance with the requirements of EU directives 68/414/EC and 98/93/EC. This will involve the establishment of an effective system to co-ordinate all activities related to the formation and supervision of oil stocks in using EU best practice. The results of the project will include the elaboration of an optimal institutional structure for the administration of the oil stock reserve system including the definition of tasks, functions and prerequisites for the oil stock reserve information system; development of co-ordination and cooperation mechanisms; procedures and recommendations
for legislative amendments as well as the development of an appropriate information system and provision of equipment and corresponding training of staff. The project is conditional on co-financing from the state budget and staff in place for the implementation of the project in the involved institutions.

**Objective 6: REGIONAL POLICY AND CO-ORDINATION OF STRUCTURAL INSTRUMENTS**

*2003/-004-979-06-01 Institutional Capacity Building in the Regions*

The project will provide support to the five planning regions established in Latvia. It will address the different needs and levels of development of these regions (Kurzeme, Latgale, Riga Region, Vidzeme and Zemgale) taking into account previous support provided. The project is designed to increase the capacity of regional institutions and their socio-economic partners in the identification, facilitation, preparation and management of the projects to be co-financed by the EU Structural Funds, especially the European Regional Development Fund, and to develop mechanisms to build and strengthen partnerships at regional level. Overall, the project will result in a more effective regional development planning and project preparation process.

*2003/-004-979-06-02 External Borders Initiatives*

The project is to prepare Latvia for its participation in the INTERREG programme at future EU external borders in Latvia after accession. Special emphasis will be put on the preparation of A-type (cross border co-operation) programmes thus providing Latvia the experience necessary for working with this type of programmes, given that after accession Latvia’s Eastern Border with Russia and Belarus will become the EU external border. Specifically, the project is to prepare the regional and local institutions and their socio-economic partners to identify, facilitate, prepare and manage projects of a cross-border nature. Thus the project will focus on capacity building issues and support small-scale people-to-people project preparation activities in order to prepare respective Latvian regional and local authorities to receive funding from INTERREG IIIA.

*2003/-004-979-06-03 Economic and Social Cohesion*

With a view to promoting sustainable economic and social development in the country, three interrelated activities are proposed a) developing innovative business infrastructure and applied research infrastructure; b) improving the employability of the labour force; c) developing local economic activities based on natural, cultural and historical sites revitalisation. In addition, a pipeline of proposals for funding under the future Structural Funds will be prepared.

The interrelated activities can be implemented throughout the country; however, lagging regions will receive particular attention in selecting proposals. Actions to be funded will correspond to measures identified in the “Draft Single Programming Document” which Latvia submitted in March 2003 to the Commission in view of the Structural Funds. Eligibility criteria and the management of the Phare ESC project will be as close as possible to those which will apply under the Structural Funds. Independent expertise will be provided to assist the authorities concerned in selecting “projects”. Through implementing this project, authorities at both national and sub-national levels will acquire further knowledge and experience, which will be directly useful for managing the Structural Funds.

**Objective 7: JUSTICE AND HOME AFFAIRS**

*2003/-004-979-07-01 Strengthening the Capacity of the Judiciary*

*Twinning LV/2003/JH/02*

The aim of the project is to strengthen the institutional capacity of the judicial system. In this respect, the project will a) assist the Latvian authorities in their efforts to establish an effective
Court administration structure, including inter alia recommendations on improvement of the operation of court self-governing institutions (Judges conference, Judges disciplinary board) as well as on the development of complaint procedures about judges; b) help to develop training programmes both for the management and administrative personnel of the Court as well as for potential judge candidates; and c) assist to improve civil procedure rules with the aim to shorten and simplify the existing procedures and to introduce alternative dispute resolution procedures as well as elaborate amendments to the Law on Civil Procedure on international judicial co-operation in civil matters; d) provide for technical equipment including IT equipment to enhance communication and co-ordination of administrative activities with courts, the Court Administration structure and relevant judicial institutions. The project is conditional, with regard to Component 1, upon adoption of the Concept on the establishment of the Court Administration by the Cabinet of Ministers and the establishment of the Court Administration as from 2004 as well as co-financing from the state budget 2004 and 2005.

2003/-004-979-07-02 Police Training

Twinning LV/2003/JH /03A
Twinning LV/2003/JH /03B

Currently, state police training is delivered by two institutions managed by the Ministry of Interior, the Police School of the State Police which provides training to junior officers, and the Police Academy of Latvia, which delivers professional tertiary level education to specialists and senior officers. The two institutions are characterized by the same problems, i.e. lack of trainers with appropriate teaching skills, poor strategic and resource planning links with the police forces and the Ministry of Interior, poorly equipped training facilities and poor performance management and quality control systems. Both institutions are seeking to develop a joint concept about their future role, initiatives have been undertaken in this respect. The project is to support the state police in its efforts to implement the necessary reforms by strengthening its training capacity. This will include a) development of a comprehensive training system for the police at all levels and b) development and implementation of an organisation wide performance management and quality control system, c) provision of related equipment to facilitate inter alia training activities. The project is conditional on co-finance from the state budget.

2003/-004-979-07-03 State Border Control System

Twinning LV/2003/JH /04

Presently, proper checks of persons and vehicles to detect narcotics, weapons and other objects can not be ensured because of lack of adequate equipment. This project aims at developing the technical resources of the state border control system in accordance with the requirements of the Schengen acquis. It will also facilitate the recommendations stated in the “Integrated Border Management Strategy” and the best practices of EU Member States as set out in the Catalogue of recommendations for the correct application of the Schengen acquis. Specifically, the project is designed a) to improve the administrative capacity of the State Border Guard in view of facilitating communication and information exchange with other services, in particular related to FADO and Eurodac programmes and deliver related training at various levels; and b) to provide related equipment for border crossing points and to improve existing control systems accordingly in main border crossing points. The equipment is conditional on a) co-finance by the state budget; b) an assessment of the current situation.

Objective 8: CUSTOMS, PUBLIC FINANCE AND OVERALL ADMINISTRATIVE CAPACITY

2003/-004-979-08-01 Integrated Tariff Management System (ITMS) and Risk Assessment
The Latvian Customs Administration has to ensure full interconnectivity of its national systems with EU customs information technology systems in accordance with Council Regulation (EEC) 2658/87. Accession essential interconnectivity related IT systems and applications are already elaborated under Phare 2002. The current project aims at further refinement, enhancement and interfacing of the systems elaborated under Phare 2002 in view of the completion of the ITMS. Specifically, the following systems will be further developed: TARIC and TQS/Surveillance in an Integrated Master Tariff System (ITMS); an EU-compatible transit system based on MCC and a trader connection for simplified procedures within the NCTS project; connection of the EBTI, ISPP, SMS systems via CCN/CSI / web light-clients (+ ECICS). Further, an adequate risk analysis system is to be developed under this project. The project is conditional on the successful implementation of an EU-compatible version of the ASYCUDA Customs Declaration Processing System by UNCTAD and the Phare networking programme on installation of CCN/CSI implemented.

2003/-004-979-08-02 Tax Control Improvement

Twinning LV/2003/FI /02

To increase the efficiency of thematic checks, the State Revenue Service will need to have the means to cope with the increasing problem of carousel fraud and fraud related to international transactions. The project aims at setting up an effective control system for the fight against carousel fraud and cross-border tax evasion. The project will result a) in the establishment of a system for fighting against international transactions and carousel fraud including a revision of the rights of the tax administration and obligations of tax payers, fine-tuning of the system of tax control related exchange of information and cooperation with various involved institutions, training of tax inspectors; b) in the establishment of the thematic checks support IT system including training; and c) adaptation of related IT support system including regional offices. The project is conditional upon adequate co-finance from the national budget and on operation of the International transactions Division.

2003/-004-979-08-03 Public Funds External Audit

Twinning LV/2003/FI /03

The project builds on previous assistance (Phare 2000) provided to the State Audit Office (SAO). While the Phare 2000 project delivered a basis to improve the quality of the work as such and the efficiency of internal processes, this project is designed to further strengthen the State Audit Office as an independent, professional and efficient organisation. Specifically, the project is to a) address human resources issues of the SAO and to propose changes to the SAO’s structure to provide the most efficient use of its key staff; elaborating a strategic plan including the development of training needs analysis; b) enhance implementation of financial and performance audits according to International Auditing Standards of EU Funds to final beneficiaries; c) draw up procedures between the SAO and the Parliament’s Public Expenditure and Audit Committee on reporting to the Committee; d) raise awareness of the SAO audit staff on fraud and corruption issues and provide clear guidelines on the role of the SAO in the fight against fraud and corruption; and e) provide training on the use of IT. The project is conditional on good coordination with other projects (bilateral) in the same field.

2003/-004-979-08-04 Institution Building Facility

Twinning Light Envelope LV/2003/IB /01

7
The aim of the project is to strengthen the institutions and administrative capacity for the full application of the *acquis communautaire*. Specifically, the project is designed to a) strengthen the institutional and administrative capacity by means of twinning light assistance to fulfil specific, well defined institution building tasks identified within the framework of accession negotiations and the Action Plan 2002 as well as the monitoring process to close gaps and to reinforce Latvia’s administrative and judicial capacity; and b) to strengthen the capacity for evaluation of Community funds.

**PROGRAMME CONDITIONALITY**

The Latvian Government will ensure that appropriate co-financing in accordance with the details included in the project fiches will be available in time. Unless otherwise specified in the project fiche, co-financing for services, supply and works contracts should be joint co-financing and the ratio between the Phare and the national amount has to be applied to the final contract price.

### 2. BUDGET

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All amounts in EURO
| Objective 8: Customs, Public Finance and Overall Administrative Capacity |
|---------------------------------------------------------------|-------|-------|-------|
| 01 - Integrated Tariff Management System (ITMS) and Risk Assessment | 797 000 | 2 330 000 | 3 127 000 |
| 02 - Tax Control Improvement                                    | 400 000 | 830 000 | 1 230 000 |
| 03 - Public Funds External Audit                                | 617 000 | 617 000 | 617 000 |
| 04 - Institution Building Facility                              | 1 300 000 | 1 300 000 | 1 300 000 |
| TOTAL                                                           | 17,119,200 | 28,530,700 | 45,649,900 |

(The figures in the budget table are indicative only)

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 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 Latvia and the Commission\(^2\). Prior to the conclusion of said Agreement, implementation will exceptionally follow Phare Decentralised Implementation System (DIS) procedures\(^3\). 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 of the Republic of Latvia, 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

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\(^1\) Taxes are not an element eligible for co-financing


\(^3\) in accordance with the rules set down in Council Regulation 1605/2002 (Financial Regulation), the Commission Regulation 2342/2002 (Implementing Rules of the Financial Regulation) and the annex of Council Regulation 1266/1999
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 M, except those in the following areas: Political criteria (2003/-004-979-01-02 and 2003/-004-979-01-03); Internal Market (2003/-004-979-02); Agriculture (2003/-004-979-03-02); Social Policy, Employment and Public Health (2003/-004-979-04); Energy (2003/-004-979-05); Regional Policy and Coordination of Structural Instruments (2003/-004-979-06-01 and 02); Justice and Home Affairs (2003/-004-979-07-01 and 02); Customs, Public Finance and Overall Administrative Capacity (2003/-004-979-08-02 to 04). These projects are all Institution Building projects the objectives of which can be achieved with amounts smaller than € 2 million.

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. Concerning the amount foreseen under the Institution Building Facility, Component 1, (project number: 2003/-004-979-08-04), projects must be programmed and Terms of Reference agreed by the Delegation by no later than the date of accession.

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 and Art. 42 of the Implementing Rules to the Financial Regulation will be put in place.

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

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

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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
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 Latvia in December 1998. 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.

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 (FA) 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 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,

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7 as defined in Art. 81.1.b.i of the Financial Regulation
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)⁸.

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.

For those contracts with funds retained for a warranty period, 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 accounts⁹ 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>CRIS number</th>
<th>Sub-programmes</th>
<th>Name of Implementing Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003/-004-979-01-</td>
<td>01 - Promotion of Integration of Society</td>
<td>Society Integration Foundation</td>
</tr>
<tr>
<td></td>
<td>02 - Development and Strengthening of Civil Society</td>
<td>Society Integration Foundation</td>
</tr>
<tr>
<td></td>
<td>03 - Development and Strengthening of the Corruption Prevention and Combating Bureau</td>
<td>CFCU</td>
</tr>
</tbody>
</table>

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⁸ as defined in Art.105 of the Implementing Rules

⁹ in particular, but not exclusively, accounts run by the NF, the CFCU and IAs
g.) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive\(^\text{10}\) 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\(^\text{11}\).

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

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

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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
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 Riga 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 subcontracting 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.

Procurement

In relation to services/equipment to be procured under the projects 2003/004-979-02-02 (Medical Devices) - contract 3 competitive negotiated procedure; 2003/004-979-03-01 (Agriculture markets) – contracts 3 and 4 negotiated procedure (several suppliers), contract 5 direct contract with UNCTAD; 2003/004-979-03-02 (Land Parcel System) – contract 4 direct contract; 2003/004-979-04-04 (Rabies vaccination) – contract 2 negotiated procedure (more than 1 supplier) and in accordance with regulation 3906/89 (18/12/1989 OJ L375 of 23.12.1989) and the relevant Commission decisions, the Commission services may upon justified request by the National authorities, authorise exceptions to standard procedures.
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 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:

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

\textsuperscript{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.).
(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.\textsuperscript{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.\textsuperscript{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.

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 Latvia, 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.

\textsuperscript{16} OJ L 178; 12.7.94; p. 43-46
\textsuperscript{17} OJ L 292; 15.11.1996; p. 2-5