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 the Republic of Lithuania, 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 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: LI 98.10
Title: 1998 Large Scale Infrastructure Facility
Duration: Until 31 January 2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 4 MECU hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 31 January 2001, subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is 31 January 2004. All disbursements must be completed by the deadline for disbursement. THE COMMISSION may however, in exceptional circumstances, agree to an appropriate extension of the contracting period or of the disbursement period, should this be requested in due time and properly justified by THE RECIPIENT. This Memorandum shall expire at the expiry of the disbursement period of the EC GRANT. All the funds which have not been disbursed shall be returned to the Commission.
ARTICLE 4 - ADDRESSES

Correspondence relating to the execution of THE MEASURE, stating THE MEASURE’S number and title, shall be addressed to the following:

for the COMMUNITY:
Delegation of the European Commission
Naugarduko 10
2001 Vilnius, Lithuania
Tel.: +370-2-31 31 91
Fax: +370-2-31 31 92

for THE RECIPIENT:
Government of Lithuania
Ministry of Foreign Affairs
Mr Algirdas SAUDARGAS, National Aid Co-ordinator
J. Tumo-Vaizganto 2
2600 Vilnius, Lithuania
Tel.: +370-2-61 85 37
Fax: +370-2-62 07 52

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 Vilnius
Date 28/12/98
for THE RECIPIENT

Mr A. Saudargas
Minister of Foreign Affairs
National Aid Coordinator

Done at Vilnius
Date 28/12/98
for THE COMMUNITY

Mr. H. Schmiegelow
Head of Delegation

Annexes
Annex 1 Framework Agreement
Annex 2 General Conditions
Annex 3 (C) Special Provisions
SPECIAL PROVISIONS (ANNEX C)

1. OBJECTIVES AND DESCRIPTION

1.1 Overall and Specific Objectives

As part of the overall Phare programme, the overall objective for the LSIF is to facilitate the applicant countries efforts to join the European Union as soon as possible.

The LSIF has three specific objectives:

a) to facilitate priority investments in transport and environment with a significant accession and transboundary impact.

b) to facilitate loans from the participating IFI’s and cofinancing from the beneficiary countries.

c) to familiarise the applicant countries with the competitive application and selection process - and decentralised implementation procedures - which shall be used by the Instrument for Structural Pre-Accession which will come into force in 2000 and which will prepare applicant countries for the management and implementation of future cohesion funds.

1.2 Project Eligibility

The LSIF has a number of eligibility criteria which had to be met for a project to be considered for support:

a) be cofinanced with an IFI existing or planned loan in accordance with the Copenhagen criteria, and have the necessary commitment of cofinancing from the beneficiary.

b) complement existing financiers and not “crowd out” any existing cofinancing (termed additionality)

c) be ready for procurement after signature of the Financing Memorandum.

d) have a minimum Phare project size of at least 2 MECU.

1.3 Project Selection, Transparency and Consultation

As cofinancing with the International Financial Institutions (IFI’s) is a precondition of support under the LSIF, the selection process commenced with a request to the IFI’s for a long list of potential projects for cofinancing under the LSIF in both 1998 and 1999.

This indicative long-list was screened in inter-service consultation with the relevant Commission services (i.e. Directorate Generals of transport, environment and regional development). A resulting list of projects was drawn up which had a high impact on a priority area as highlighted in the Accession Partnership and NPAA’s and, in many cases, which addressed a key transboundary issue, notably regional interconnectivity in transport and the regional environmental problems of the Danube River Basin and Baltic Sea, both classified as “sensitive waters”.

This list was sent to the Phare National Aid Co-ordinators (NAC’s) who indicated their support for LSIF funding for the projects in either 1998 or 1999 and also proposed additional proposals for consideration under the LSIF.
The shortlist eligible for 1998 and initial 1999 LSIF support has been compiled on the basis of these responses from NACs and the relevant DG's.

The identification of priority projects for LSIF support in joint collaboration with the IFIs also represents a new approach which recognises the limited financial resources of Phare.

Special emphasis was thus given to those projects which could lever maximum additional resources from IFIs, partner countries and the private sector and which facilitate the earlier financing of additional phases in the target projects which otherwise would not take place\(^1\). An analysis of the projects contained within the first two financing proposals indicates that the Phare contribution of 144 Mecu to the first phase of the LSIF will be associated with a total investment package of 1.3 billion ECU. This represents a leverage of 8 Mecu of further investment from 1 Mecu of Phare contribution.

Such an approach has ensured that significant additional loan resources, far beyond that which Phare could commit for such projects on its own, have been facilitated through the co-operation with the IFIs on key accession topics.

The Phare component of the projects as set out in section 4.5 was identified together with the relevant National authorities and the IFIs and has been selected from the overall project package because it either ensures compliance with a specific Community aquis or because it is the least financially viable component and thus helps turn an economically viable project into a financially viable project.

1.4 Final Selection for projects to be included in this Financing Proposal

The final list of projects presented in this Financing Proposal was drawn from the approved shortlist on the basis of each project’s readiness for implementation, another key criteria for support under the LSIF.

Two transport and one environmental projects are identified for financing under this financing proposal. The total of the financing proposal is 25 Mecu with 9 MECU and 16 MECU respectively for transport and environment.

In terms of country allocations, the breakdown of this financing proposal is as follows: Estonia (5 Mecu), Hungary (16 Mecu) and Lithuania (4.0 Mecu).

1.5 Description of Project Proposals

This section provides a summary of the projects to be financed under this financing proposal. Further details are provided in the accompanying project fiches in Annex 1.

1.5.1 Estonia

Title: Tallinn-Narva and Tapa-Petseri Railway lines
IFI: EIB/EBRD
Phare: 5 Mecu

\(^1\) For example, LSIF support to the Budapest Waste Water Project will permit the municipality to commence preparation of the network rehabilitation and new collector system three years earlier than originally foreseen in Budapest’s overall waste water rehabilitation programme.
Outline: Project links Pan-European corridors and forms part of TINA backbone network, hence accession impact. Phare support would accelerate investment.

1.5.2 Hungary

Title: Budapest Municipal Waste Water Programme
IFI: IBRD
Phare: 16 Mecu
Outline: Project directly promotes compliance with Water Framework and Urban Waste Water Treatment directives, reduces Danube trans-boundary pollution and facilitates municipality's ability to tackle new phases in the upgrade of Budapest waste water system.

1.5.3 Lithuania

Title: Marijampole Bypass, (Via Baltica road corridor nº 1)
IFI: EIB/EBRD
Phare: 4 Mecu
Outline: Project is located on Corridor 1, hence accession impact. Project will only be possible if Phare funding is granted, thus clear additionality.

The environmental impact assessment procedures of the IFI and beneficiary country have been followed for each of the investment projects under the LSIF, details of which are provided in the individual project fiches.

Equal opportunity for men and women to participate in all projects will be ensured.

1.6 The LSIF 1999 Programme

In line with the approach to be taken on ISPA - for which the LSIF is a precursor - and in view of the large financial requirements for both areas, it is intended that a 50:50 split between the two target sectors of transport and environment shall be maintained over 1998 and 1999. Due to problems of project readiness on the shortlisted environment projects, the budget in 1998 heavily favoured transport. The balance while somewhat corrected by this current financing proposal still heavily favours transport. To maintain the 50:50 split, it is thus the Commission’s intention to allocate a greater share to environment under the third LSIF financing proposal which will be presented to the Phare Management Committee in the second half of 1999, both within capital investment projects and within an enlarged project preparation facility, recognising the lack of preparedness of all projects both in environment and transport, but especially in environment.

2. BUDGET

<table>
<thead>
<tr>
<th>Sector</th>
<th>Allocation</th>
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<td>16</td>
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<td>0</td>
</tr>
<tr>
<td>Country</td>
<td>Financing Memo or Parallel Co-financing Agreement</td>
<td>MECU</td>
<td>Project Title</td>
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<td>Estonia</td>
<td>ES 98.08</td>
<td>5</td>
<td>Tallinn-Narva and Tapa-Petsari Railway lines</td>
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<td>Hungary</td>
<td>HU 98.11</td>
<td>16</td>
<td>Budapest Municipal Waste Water Programme</td>
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<td>Lithuania</td>
<td>LI 98.10</td>
<td>4</td>
<td>Marijampole Bypass (Via Baltica road corridor no 1)</td>
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</tr>
</tbody>
</table>

3. IMPLEMENTATION ARRANGEMENTS

While the LSIF 1999 is presented to the Management Committee as a horizontal facility, the projects shall be implemented through the Phare national programme structures. The National Aid Coordinator for each of the countries concerned will have the overall responsibility for programming, monitoring and implementation of the Phare programme.

This single Financing Proposal is presented to the Management Committee covering all the projects within the LSIF. The LSIF will be split on a project by project basis by signing 3 separate Financing Memoranda, as set out in the following table, thereby allowing an optimal follow up in each individual country and a maximum efficiency in project implementation.

3.1 Implementation through National Programmes

As indicated in the table overleaf, the bulk of the LSIF 1998 projects in question shall be implemented through the Phare National Programme system and, as such, the National Programme procedures will be applied subject to the implementation and funds flow arrangements specified in this Financing Proposal and in the Project Fiche which reflect the fact that the projects are being co-financed by lead IFIs.

As for normal Phare National Programme projects, the funds flow shall be through the National Fund onto the CFCU or Implementing Agency, according to the normal national programme structures. Procurement and payments will be by the CFCU or Implementing Agency to the contractor. The beneficiary will be involved in the day to day supervision, reporting back on progress to the CFCU or Implementing Agency.

These projects will be managed in accordance with the Phare Decentralised Implementation System (DIS) procedures. These provide in the case of co-financing with IFIs where Phare is the minority co-financing partner (as in the case of all LSIF projects) that the implementation structures and systems of the co-financing IFI will be followed as closely as possible (especially as regards procurement, supervision and monitoring through existing IFI project implementation units) while maintaining Phare’s rules of origin, transparency, advertising and eligibility in all procurement, however. This approach has been used to good effect on past projects, resulting in significantly enhanced implementation efficiencies.
The National Fund (NF), headed by the National Authorising Officer (NAO), will supervise the financial management of the Programme. Appropriate financial control shall be carried out by the competent National Financial Control Authority with respect to the implementation of the programme.

The Commission will transfer the funds to the NF in accordance with the Memorandum of Understanding signed between the Commission and the Ministry of Finance. Funds will be transferred following requests from the NAO as follows:

- Estonia: A payment of 1 mceu will be transferred to the NF following signature of the Financing Memorandum. Four replenishments will be made of up to 1 mceu or the full balance of the budget, whichever is the lesser amount.
- Hungary: A payment of 3.2 mceu will be transferred to the NF following signature of the Financing Memorandum. Four replenishments will be made of up to 3.2 mceu or the full balance of the budget, whichever is the lesser amount.
- Lithuania: A payment of 0.8 mceu will be transferred to the NF following signature of the Financing Memorandum. Four replenishments will be made of up to 0.8 mceu or the full balance of the budget, whichever is the lesser amount.

The first replenishment will be triggered when 10% of the budget has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission HQ, no replenishment request may be made if the aggregate of the funds deposited in the NF and the IAs exceeds 10% of the total budget in force of the commitment. Exceptionally the NAO may request an advance payment of more than 20% in accordance with the procedures laid down in the aforesaid Memorandum of Understanding.

The National Fund will transfer funds to Implementing Agencies (IAs), including the Central Financing and Contracting Unit (CFCU), in accordance with Financing Agreements (FAs) signed between the NFs and the IAs/CFCU where applicable. Each individual FA will be endorsed in advance by the European Commission. In cases where the NF is itself the paying agent for the CFCU there will be no transfer of funds from the NF to the CFCU. The CFCU and the IAs will each be headed by a Programme Authorising Officer (PAO) appointed by the NAO after consultation with the NAC. The PAO will be responsible for all the operations carried out by the relevant CFCU/IA.

The Implementing Agency has overall responsibility for tendering, contracting and payments.

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<tr>
<th>Implementation Arrangements</th>
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<tr>
<td><strong>Project Title</strong></td>
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<tr>
<td>Estonia Tallinn-Narva and Tapa-Petsani Railway lines</td>
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A separate interest bearing bank account, denominated in ECU, will be opened and managed by the NF in a separate accounting system in a Bank agreed in advance with the Commission. Interests will be reported to the European Commission; if the Commission so decides, on the basis of a proposal from the NAO, interests may be reinvested in the Programme. The same procedures will apply to any funds transferred to an IA or CFCU.

The NAO and the PAOs will ensure that all contracts are prepared in accordance with the procedures set out in the DIS Manual’s procedures on IFI/Phare cofinanced projects.

3.2 General Conditions

All contracts must be concluded before January 31 2001. All disbursements on all projects must be made before January 31 2004.

The Commission shall take a direct role and provide expertise in supporting and overseeing the procurement and implementation process of LSIF projects because of the importance of the programme, because of the urgency of the contracting deadlines and because the CFCUs and National Funds are only now being put in place and getting up to full speed. This is a critical aspect of the contracting and disbursement deadlines are to be met. If the relevant national structures are not established in time to meet the commitment schedules set down in annex to this proposal and the project fiches, contracting may be undertaken centrally by the Commission.

Any funds not used by the expiry date of the programme will be recovered by the Commission.

For those contracts with funds retained for a warranty period extending beyond the end of the disbursement period of the programme, the overall total of funds related to those contracts, as calculated by the PAO and established by the Commission, will be paid to the Implementing Agency before the official closure of the programme. The Implementing Agency assumes full responsibility of depositing the funds until final payment is due and for ensuring that said funds will only be used to make payments related to the retention clauses. The Implementing Agency further assumes full responsibility towards the contractors for fulfilling the obligations related to the retention clauses. Interests accrued on the funds deposited will be paid to the Commission after final payment to the contractors. Funds not paid out to the contractors after final payments have been settled shall be reimbursed to the Commission. An overview of the use of funds deposited on warranty accounts - and notably of the payments made out of them - and of interests accrued will annually be provided by the NAO to the Commission.

4. MONITORING AND ASSESSMENT

On a country by country basis, a Joint Monitoring Committee (JMC) will be established. It will include the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all Phare funded programmes - including the LSIF projects in their countries - 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 reallocation of Phare funds.
The JMC will be assisted by Monitoring Sub-Committees (MSC) and will include the NAC, the PAO of each LA (and of the CFCU where applicable) and the Commission Services. The MSC will review in detail the progress of each programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultant (in accordance with the provisions of the DIS Manual), and will put forward recommendations on aspects of management and design, ensuring these are effected. The MSC will report to the JMC, to which it will submit overall detailed reports on all Phare financed programmes.

Given the special nature of LSIF projects, implementation will also be closely monitored by the Commission centrally.

5. AUDIT AND EVALUATION

On projects implemented through Phare National Programme structures, 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.

On projects where implementation is delegated to the cofinancing IFI, the Commission maintains the same rights of access to IFI financial records concerning the Phare funds for auditing purposes, as indicated above under the National Programmes.

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

6. VISIBILITY / PUBLICITY

The appropriate Programme Authorising Officer will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all activities financed from the programme. This will be done in close liaison with the Commission Delegation. Further details are at annex 5.

7. SPECIAL CONDITIONS

In the event that agreed commitments are not met for reasons which are within the control of the implementing authority concerned or the IFI with whom the project is co-financed, 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.
INFORMATION AND PUBLICITY FOR THE EUROPEAN UNION’S PHARE PROGRAMME

1. Objective and scope

Information and publicity measures concerning assistance from the European Union’s Phare Programme are intended to increase public awareness and transparency of EU action and to create a consistent image of the measures concerned in all applicant countries. Information and publicity shall concern measures receiving a contribution from the European Union’s Phare Programme.

2. General principles

The appropriate Programme Authorising Officer in charge of the implementation of Financing Memoranda, and other forms of assistance shall be responsible for publicity on the spot. Publicity shall be carried out in cooperation with the Commission’s Delegations, which shall be informed of measures taken for this purpose.

The competent national and regional authorities shall take all the appropriate administrative steps to ensure the effective application of these arrangements and to collaborate with the Commission’s Delegations on the spot.

The information and publicity measures described below are based on the provisions of the regulations and decisions applicable to the Structural Funds. They are;


Information and publicity measures must comply with the provisions of the Information Handbook for European Commission Delegations in Central Europe. The relevant sections of the Information Handbook will be annexed to all contracts related to works and supplies.

3. Information and publicity concerning Phare programmes

Information and publicity shall be the subject of a coherent set of measures defined by the competent national, regional and local authorities in collaboration with the Commission’s Delegations for the duration of the Financing Memorandum and shall concern both programmes and other forms of assistance.
The costs of information and publicity relating to individual projects shall be met from the budget for those projects.

When Phare programmes are implemented, the measures set out at (a) and (b) below shall apply:

(a) The competent authorities of the applicant countries shall publish the content of programmes and other forms of assistance in the most appropriate form. They shall ensure that such documents are appropriately disseminated and shall hold them available for interested parties. They shall ensure the consistent presentation throughout the territory of the applicant country of information and publicity material produced, in accordance with the provisions of the Information Handbook.

(b) Information and publicity measures on the spot shall include the following:

(i) In the case of infrastructure investments with a cost exceeding ECU 1 million

- billboards erected on the sites, to be installed in accordance with the provisions of the Information Handbook

- permanent commemorative plaques for infrastructures accessible to the general public, to be installed in accordance with the provisions of the Information Handbook.

(ii) In the case of productive investments, measures to develop local potential and all other measures receiving financial assistance from Phare;

- measures to make potential beneficiaries and the general public aware of Phare assistance, in accordance with the provisions of the Information Handbook;

- measures targeting applicants for public aids part-financed by Phare, in the form of an indication on the forms to be filled out by such applications, that part of the aid comes from the EU, and specifically, the Phare Programme, in accordance with the provisions of the Information Handbook.

4. Visibility of EU assistance in business circles and among potential beneficiaries and the general public

4.1 Business circles

Business circles must be involved as closely as possible with the assistance which concerns them most directly.

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to potential beneficiaries, particularly SMEs. These should include an indication of the administrative procedures to be followed.
4.2 Other potential beneficiaries

The authorities responsible for implementing assistance shall ensure the existence of appropriate channels for disseminating information to all persons who benefit or could benefit from measures concerning training, employment or the development of human resources. To this end, they shall secure the cooperation of vocational training bodies involved in employment, business and groups of business, training centres and non-governmental organisations.

Forms

Forms issued by national, regional or local authorities concerning the announcement of, application for and grant of assistance intended for final beneficiaries or any other person eligible for such assistance shall indicate that the EU, and specifically the Phare Programme, is providing financial support. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the Phare Programme. If such documents bear the national or regional emblem, they shall also bear the EU logo of the same size.

4.3 The general public

The media

The competent authorities shall inform the media in the most appropriate manner about actions co-financed by the EU, and Phare in particular. Phare participation shall be fairly reflected in this information.

To this end, the launch of operations (once they have been adopted by the Commission) and important phases in their implementation shall be the subject of information measures, particularly in respect of regional media (press, radio and television). Appropriate collaboration must be ensured with the Commission’s Delegation in the applicant country.

The principles laid down in the two preceding paragraphs shall apply to advertisements such as press releases or publicity communiqués.

Information events

The organisers of information events such as conferences, seminars, fairs and exhibitions in connection with the implementation of operations part-financed by the Phare Programme shall undertake to make explicit the participation of the EU. The opportunity could be taken of displaying the European flags in meeting rooms and the EU logo upon documents depending on the circumstances. The Commission’s Delegation in the applicant country shall assist, as necessary, in the preparation and implementation of such events.

Information material

Publications (such as brochures and pamphlets) about programmes or similar measures financed or co-financed by Phare should, on the title page, contain a
clear indication of the EU’s participation as well as the EU logo where the national or regional emblem is used.

Where such publications include a preface, it should be signed by both the person responsible in the applicant country and, for the Commission, the Delegate of the Commission to ensure that Phare’s participation is made clear.

Such publications shall refer to the national and regional bodies responsible for informing interested parties.

The above-mentioned principles shall also apply to audio-visual material.

5. Special arrangements concerning billboards, commemorative plaques and posters

In order to ensure the visibility of measures part-financed by the Phare Programme, applicant countries shall ensure that the following information and publicity measures are complied with:

Billboards

Billboards providing information on EU participation in the financing of the investment should be erected on the sites of all projects in which EU participation amounts to ECU 1 million or more. Even where the competent national or regional authorities do not erect a billboard announcing their own involvement in financing the EU’s assistance must nevertheless be announced on a special billboard. Billboards must be of a size which is appreciable to the scale of operation (taking into account the amount of co-financing from the EU) and should be prepared according to the instructions contained in the Information Handbook.

Billboards shall be removed not earlier than six months after completion of the work and replaced, wherever possible, by a commemorative plaque in accordance with the provisions contained in the Information Handbook.

Commemorative plaques

Permanent commemorative plaques should be placed at sites accessible to the general public (congress centres, airports, stations, etc.). In addition to the EU logo, such plaques must mention the EU’s part-financing together with a mention of the Phare Programme.

Where a national, regional or local authority or another final beneficiary decides to erect a billboard, place a commemorative plaque, display a poster or take any other step to provide information about projects with a cost of less than ECU 1 million, the EU’s and Phare’s participation must also be indicated.

6. Final provisions

The national, regional or local authorities concerned may, in any event, carry out additional measures if they deem this appropriate. They shall consult the
Commission’s Delegation and inform it of the initiatives they take so that the Delegation may participate appropriately in their realisation.

In order to facilitate the implementation of these provisions, the Commission, through its Delegations on the spot, shall provide technical assistance in the form of guidance on design requirements, where necessary.