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 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: LI01.17.01 and LI01.17.02
Title: 2001 Special Programme to support the decommissioning of nuclear plants and consequential measures in the energy sector for Lithuania
Duration: Until 30/11/2003

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 55 MEUR hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 30/11/03 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 30/11/2004; All disbursements must be completed by the deadline for disbursement. THE COMMISSION

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1 The Financing Memorandum structure is as follows: 1. the coverpages with the references to the country concerned, amount and authority to sign, 2. Annex A of the Framework Agreement; 3. Annex B of the Framework Agreement; Annex C -Special Conditions (the text of the adopted financing proposal starting from Description and Objectives onwards); and Annex D 'Visibility/Publicity.  
2 Expiry Date for Disbursements should be set out at maximum 36 months after signature of the FM.
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 to Lithuania
Naugarduko g. 10
2001 Vilnius
Lithuania

Fax: (+370) 2 31 31 92

_for THE RECIPIENT:_

Finansu Ministerija (Ministry of Finance)
J.Tumo-Vaizganto g. 8a/2
2600 Vilnius
Lithuania

**ARTICLE 5 - NUMBER OF ORIGINALS**

This Memorandum is drawn up in duplicate in the English language.

**ARTICLE 6 - ENTRY INTO FORCE**

This Memorandum shall enter into force on the date on which it has been signed by both parties. No expenditure incurred before this date is eligible for the EC GRANT.

The Annexes shall be deemed an integral part of this Memorandum.

Done at........ Date 17 December 2001

for THE RECIPIENT

[Signature]

Encl.

Done at........ Date 17 December 2001

for THE COMMUNITY

[Signature]

MICHAEL GRAHAM
HEAD OF DELEGATION
Framework Agreement (Annexes A & B)
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)
SPECIAL PROVISIONS

1. OBJECTIVES AND DESCRIPTION

General objectives

The overall objective of the “Special Programme” is to assist Lithuania’s preparation for membership of the EU in relation to the nuclear and energy sectors especially by facilitating the preparation and implementation of Lithuania’s early closure decision of 5 October 1999 and the short-term priorities of the Accession Partnership in these areas.

This will be achieved through support to the first phase of decommissioning of the INPP, and measures required for the necessary restructuring, upgrading and modernisation of the energy production, transmission and distribution sectors, and improving energy efficiency. This support will be delivered to the operator, via the Ignalina International Decommissioning Support Fund, as well as directly to the nuclear safety regulatory authority.

The ‘Special Programme’ contributes to the international efforts to share the financial implications of early closure with the Lithuanian authorities.

Specific objectives

Contribution to the “Ignalina International Decommissioning Support Fund”

The purpose of the Fund is to finance or co-finance, through specific grants, two main areas of work:

(i) decommissioning activities concerning the INPP (nuclear projects “window”);
(ii) measures which are consequential to the decision taken to close and decommission the INPP and which would assist the necessary restructuring, upgrading and modernisation of the energy production, transmission and distribution sectors as well as to improve energy efficiency (non-nuclear projects “window”),

through the provision of goods, works and services.

Institution Building at the Lithuanian Nuclear Safety Authority (VATESI) – Support to the Licensing Activity related to the Decommissioning of the Ignalina NPP to VATESI and Lithuanian TSOs (2003-2004)

The aim of the project is to assist VATESI in licensing decommissioning activities with regard to the Ignalina NPP and to provide input to ensure consistency with modern approaches to decommissioning in accordance with requirements and practices prevailing within the EU. It can also support the transfer know-how to the Technical Safety Organisations (TSOs) supporting the nuclear safety authority in its task.

The financial assistance under this programme is directed towards the support of a project that is aimed to represent the continuation of the project to provide “support to licensing activities
related to the decommissioning of the Ignalina Nuclear Power Plant to VATESI and Lithuanian TSOs” (PH/LI/TS/10/99). The project will, in particular, address the continuation of support to the following tasks:
- decommissioning project for the shutdown phase of INPP 1 – VATESI reviews SAR
- justification of INPP single unit operation – VATESI reviews SAR
- extension of spent nuclear fuel intermediate storage facility – VATESI reviews PSAR and licenses construction
- reconstruction of solid long-lived radioactive waste storage building – VATESI reviews PSAR and licenses construction
- reconstruction of solid short-lived radioactive waste storage building – VATESI reviews PSAR and licenses construction
- implementation of incineration facility – VATESI reviews FSAR and licenses construction
- construction of a repository for short-lived waste – VATESI reviews PSAR, FSAR for the licensing of construction and operation.

Its implementation will be closely linked to the PHARE assistance to the operator with regard to the closure and decommissioning of the Ignalina NPP, delivered via the Ignalina International Decommissioning Support Fund.

The project will add to the European Community’s objective to support VATESI in attaining the factors affecting the effectiveness and independence of a nuclear safety regulatory body needed to exercise its licensing functions as described, inter alia, in the conclusions of the 17th meeting of the CONCERT Group.

All investment projects that, according to the rules stipulated in Directive 85/337/CEE as amended by Directive 97/11, require an Environmental Impact Assessment, should be the subject of an Environmental Impact Assessment. If the directive has not yet been fully transposed, the procedure should be similar to that established by the above-mentioned directive.

All investment projects shall be carried out in compliance with the relevant Community environment legislation. The Project Fiches will contain specific clauses on compliance with relevant EU legislation in the field of the environment according to the type of activity carried out under each investment project.

**Ignalina International Decommissioning Support Fund**

The Fund - established by the EBRD’s Board of Directors on 12 June 2000 - is governed by the Assembly of Contributors providing strategic guidance, in a manner compatible with the Rules. The Assembly may be supported by an Operating Committee. The EBRD, as Fund Manager, provides technical, project management, financial, legal and administrative services. Project financing is conditional upon the Assembly of Contributors being satisfied that Lithuania is in compliance with its closure commitments. Any member of the EBRD and any interested country may contribute to the Fund. Several countries may pool their contributions. The minimum individual initial contribution shall be at least € 1.5 million. Contributions may be earmarked for one of the purposes of the Fund but not for specific projects.
The Fund commenced its operations through the first meeting of its Assembly of Contributors held on 5 April 2001. On this occasion, the Assembly adopted the first budget and the work programme of the Fund. It also endorsed the establishment of a Project Implementation Unit at the Ignalina NPP as the first project to be financed via the grant fund. This PMU will help establish the Decommissioning Plan required by law and technically help prepare the actual decommissioning steps. On the occasion of the first Assembly meeting, the Bank and the Government of Lithuania also signed a Framework Grant Agreement that has since been ratified by the Lithuanian Seimas in July 2001. With numbers increasing, currently about a dozen Contributors support the international grant fund, mainly Member States of the European Union as well as other European States. As the representative of the European Community, the largest Contributor to the Fund, the European Commission chairs the Assembly of Contributors. The next meeting of the Assembly is currently scheduled for autumn 2001.

For the first two years of the Fund’s operation, the EBRD will receive full compensation for all costs incurred in connection with the Fund on the basis of annual budgets approved by the Assembly. After expiry of the initial two-year period, the compensation arrangements will be reviewed by the Assembly and the EBRD with the intention of agreeing on a fixed fee of about 2% of total contributions. The EBRD’s procurement policies and rules will apply to the use of funds with the general rule that procurement will be limited to the countries of the contributors or the countries of operations of the EBRD. The Fund remains in force for a period of ten years unless terminated earlier by a decision of the Assembly. The Assembly may also extend the Fund for an additional period, if required to complete the objectives of the Fund.

The Rules of the Fund are attached in Annex 1.

Overall programme conditionalities

The granting and disbursement of assistance under the “Special Programme” will be strictly parallel with a timely process of preparation and eventual implementation of the definitive closure of the INPP. Clear provisions to this end have also been included in the Fund rules stating that financing will be conditional upon the Assembly being satisfied that the recipient country is in compliance with its closure commitment.

2. BUDGET (million Euro)

<table>
<thead>
<tr>
<th>Code</th>
<th>Objective and projects</th>
<th>Total PHARE support</th>
<th>Institution building</th>
<th>Investment</th>
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<tr>
<td>LI01.17.01</td>
<td>Ignalina International Decommissioning Support Fund</td>
<td>54.00</td>
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<td>54.00</td>
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1 A initial and limited amount of operational costs can be covered from the present Communities’ contribution following the establishment of the Fund in order to advance the mobilisation of resources for preparation and initial period of the Fund’s operation. The budget, therefore, will require the prior approval by the Commission and eventually be taken into account when the first budget is presented to the Assembly.
It is noted that € 9 million have already been programmed for the Ignalina International Decommissioning Support Fund from the 1999 Special Programme. This programme initiated the European Communities’ contribution to the INPP decommissioning effort via the said Fund. The respective programme LI 9919 also contained financial assistance of € 1 million to the Lithuanian nuclear safety regulator VATESI. A further 35 M€ were programmed from the 2000 Special Programme, with the totality attributed to the Ignalina International Decommissioning Support Fund. Together with the contribution subject to this Financing Proposal, € 85 million of the total intended contribution to Lithuania of € 165 million during the period until 2006 will have been programmed.

In preceding years, PHARE financial assistance has supported the elaboration of a decommissioning study for the INPP and has provided support to VATESI and the Lithuanian Energy Institute, its main technical support organisation.

In the non-nuclear field, PHARE support has been directed towards establishing the National Energy Strategy and towards the reform of the energy sector as a whole, in particular in view of the implementation of the acquis under the Electricity and Gas Directives. Support to address social consequences of the INPP’s in the town and area of Visaginas is subject of socio-economic cohesion measures contained in the national PHARE programme for Lithuania in line with the Lithuanian regional development policy.

3. IMPLEMENTATION

_Ignalina International Decommissioning Support Fund (project LI01.17.01)_

The main part of the funds allocated to support activities in Lithuania under this project, will be made available to Lithuania by means of the ‘Lithuania International Decommissioning Support Fund’, a grant fund which is managed by the EBRD.

The Communities will transfer funds directly to the EBRD.

The management of the Fund will be undertaken by the EBRD within the framework of its Rules. Final decisions on eligibility as well as project selection will be taken by the Assembly of Contributors of the Fund.

The Fund rules ensure that the Commission partakes in the selection of projects, and receives regular progress reports from the Fund’s management through its participation in the governing body of the Fund. The rules also identify roles and responsibilities as well as general conditions related to the disbursement of Phare financial assistance into the Fund. European Commission auditing institutions will be provided sufficient rights to audit the use of the Commission’s contributions to the Fund. Rules on the eligibility of contractors from European Union Member and Partner States are respected.
“Contracting” of the contribution from the Communities to the Fund must be concluded by 30 November 2003. All disbursement to the Fund must be made by 30 November 2004. Payments from the Fund can be made during the period of the Fund being in force.

**Institution Building at the Lithuanian nuclear safety authority VATESI (project LI01.17.02)**

The project will be managed in accordance with the PHARE decentralised implementation system (DIS), with due regard to the “new rules for contracts in the field of nuclear safety” as adopted by the Commission on 6 September 2000 to the extent that their provisions do not solely address centrally implemented projects (“the Commission will…”). The National Aid Co-ordinator (NAC) will have overall responsibility for programming, monitoring and implementation of the PHARE programme. The National Aid Co-ordinator and the National Authorising Officer shall be jointly responsible for co-ordination between PHARE (including PHARE CBC), ISPA and SAPARD.

The National Fund (NF) in the Ministry of Finance, headed by the National Authorising Officer (NAO), will supervise the financial management of the programme, and will be responsible for reporting to the European Commission, giving due regard to any special reporting and monitoring requirements that will apply to the implementation of nuclear safety projects under the DIS. The National Authorising Officer (NAO) shall have overall responsibility for financial management of the PHARE funds. The NAO shall ensure that the PHARE rules, regulations and procedures pertaining to procurement, reporting and financial management are respected, and that a proper reporting and project information system is functioning. The NAO shall have the full overall accountability for the PHARE funds of a programme until the closure of the programme.

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

The Commission will transfer funds to the NF in accordance with the current Memorandum of Understanding signed between the Commission and the Government of Lithuania in December 1998. Funds will be transferred following requests from the NAO. A payment of up to 20% of the funds to be managed locally will be transferred to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts Unit (CFCU). Furthermore, the NAO must submit to the Commission the designation of the PAOs and a description of the system put into place, highlighting the flow of information between the NF and the IA/CFCU and the manner in which the payment function will be carried out.

Four replenishments will be made of up to 20% of the funds to be managed locally or the full balance of the budget whichever is the lesser amount. The first replenishment will be triggered when 10% of the budget has been disbursed by the IAs and the CFCU. The second replenishment may be requested when 30% of the total budget in force has been disbursed. The trigger point for the third replenishment is 50%, and for the final fourth instalment when 70% is disbursed. Save for express prior authorisation from the Commission headquarters, 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 CFCU will be responsible for the project LI01.17.02.

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

A separate bank account, denominated in € will be opened and managed by the NF in a separate accounting system in the Central Bank (or in “a Bank agreed in advance with the Commission”). In principle, all bank accounts will be interest bearing. Interest will be reported to the European Commission. If the Commission so decides, on the basis of a proposal from the NAO, interest may be re-invested in the programme. The same procedures will apply to any funds transferred from an IA to the CFCU.

The NAO and PAOs will ensure that all contracts are prepared in accordance with the procedures set out by the Commission. All contracts must be concluded by 30 November 2003, all disbursements must be made by 30 November 2004. 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 IA/CFCU before the official closure of the programme. The IA/CFCU assumes full responsibility for depositing the funds until final payment is due and for ensuring that the said funds will only be used to make payments related to the retention clauses. The IA/CFCU 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**

*Ignalina International Decommissioning Support Fund (project LI01.17.01)*

The EBRD will prepare reports and technical documentation, including an Annual Report as required on the operation of the Fund. These reports will provide a comprehensive overview of the implementation of the Fund’s work programme (approved by the Assembly of Contributors) including it’s relation to compliance with closure commitments, the conditionalities set out in the project grant agreements, the administration of specific projects and eventual problems of relevance to the programme.

*General provisions in relation to the DIS*
A Joint Monitoring Committee (JMC) will be established. It will include the NAO, the NAC and the Commission. The JMC will meet at least once a year to review all PHARE funded programmes in order to assess their progress towards meeting the objectives set out in Financing Memoranda and the Accession Partnership. The JMC may recommend a change of priorities and/or the re-allocation of PHARE funds.

The JMC will be assisted by the Monitoring Sub-Committees (MSC) and will include the NAC, the PAO of each IA (and of the CFCU where applicable) and the Commission services. The MSC will review in detail the progress of each programme, including its components and contracts, on the basis of regular Monitoring and Assessment reports produced with the assistance of external consultants (in accordance with the DIS provisions), and will put forward recommendations on aspects of the 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 funded programmes.

5. ANTI-FRAUD MEASURES, AUDIT AND EVALUATION

Ignašina International Decommissioning Support Fund (project LI01.17.01)

Internal and external auditors of the EBRD shall audit the financial statements of the Fund. A Contribution Agreement further specifies audit requirements in accordance with the European Commission’s general provisions and in line with the practice established for similar fund arrangements with the EBRD.

General provisions in relation to the DIS

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 the Court of Auditors. This includes measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the candidate country and on-the-spot checks.

In order to ensure efficient protection of financial interests of the Community, the Commission can conduct check-ups and inspections on site in accordance with the procedures foreseen in Council Regulation (EURATOM, EC) No. 2185/96 dated from 11 November 1996, concerning the on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities’ financial interests against fraud and other irregularities.

The procedures foreseen in Article 15 paragraph 3 of Commission Regulation No. 2222/2000 dated from 7 June 2000, on the communication in case of irregularities and the putting in place of a system to administrate the information in this field shall apply.

The accounts and operations of the National Fund and, where applicable, the CFCU and all relevant Implementing Agencies may be checked at the Commission’s discretion by an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the European Union’s Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement.
The Commission services shall ensure that an ex-post evaluation is carried out after completion of the Programme.

6. VISIBILITY AND PUBLICITY

The EBRD 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. The Fund rules ensure that the necessary measures are taken to ensure appropriate publicity for the EU for all activities that it finances.

7. SPECIAL CONDITIONS

In the event that agreed commitments are not met for reasons which are within the control of the Government of Lithuania, 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.