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: 2002/000/634

Title: 2002 Special Programme to support the decommissioning of nuclear plants and consequential measures in the energy sector for Lithuania

Duration: Until 30/11/2004

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 80 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 30/11/04 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 30/11/2005. 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:

Mr. Michael GRAHAM
Delegation of the European Commission to Lithuania
Naugarduko g. 10
2001 Vilnius
Lithuania
Tel: (+370) 52 31 31 91
Fax: (+370) 52 31 31 92

for THE RECIPIENT:

Ms. Dalia GRYBAUSKAITE
Minister of Finance
J.Tumo-Vaizganto g. 8a/2
2600 Vilnius
Lithuania
Tel: (+370) 52 61 85 37
Fax: (+370) 52 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 ..........  
Date 19 12, 2002

for THE RECIPIENT


Done at ............  
Date 17 12, 2002

for THE COMMUNITY


Encl.
1. 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 and the priorities of the Accession Partnership in these areas.

This will be achieved through support to the first phase of decommissioning of the INPP from means under the PHARE financial instrument, 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

Contribute to the “Ignaлина 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.

The European Community, represented by the European Commission, is the main Contributor to this Fund.

Ignaлина 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 accordance with the Fund Rules (Annex 1). An Operating Committee may support the Assembly. 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 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 Management Unit at the Ignalina NPP as the first project financed via the grant fund. The PMU commenced its activities in late 2001. On the occasion of the first Assembly meeting, the Bank and the Government of Lithuania also signed a Framework Grant Agreement, subsequently ratified by the Lithuanian Seimas in July 2001. The European Commission chairs the Assembly of Contributors.

The Fund held further meetings of its Assembly of Contributors on 16 November 2001 and on 19 June 2002. On these occasions, the Assembly decided to support various projects and approved respective grant agreements. These approvals encompass the following projects:

- Reliable heat and steam source for the Ignalina NPP and Visaginas;
- Interim storage for RBMK spent fuel assemblies from Ignalina Units 1 and 2;
- Modernisation of the technical documentation archive.

The main task of the PMU in 2002 is to establish a concrete Decommissioning Plan. In addition to the above-mentioned projects, a further investment package covering waste management projects will be submitted for the Assembly’s decision. The advances made in designing the project pipeline in view of the closure of Ignalina NPP Unit 1 by 2005 will require review of the cash-flow situation of the Fund and might necessitate additional support from the Fund’s Contributors and from Lithuania’s own resources.

According to the Fund Rules, 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>
</tr>
</thead>
<tbody>
<tr>
<td>000/634</td>
<td>Ignalina International Decommissioning Support Fund</td>
<td>80.00</td>
<td></td>
<td>80.00</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>80.00</td>
<td></td>
<td>80.00</td>
</tr>
</tbody>
</table>

A first allocation of € 9 million was already 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 (L199.19) also contained financial assistance of € 1 million to the Lithuanian nuclear safety regulator VATESI. A further € 35 million were programmed from the 2000 Special Programme (L100.10), with the totality attributed to the Ignalina International Decommissioning Support Fund. The corresponding 2001 programme (L101.17) allocating a further amount of € 55 million provided € 54 million to the Fund as well as a second instalment of € 1 million in support of VATESI. With the contribution of € 80 million from this programme, the total allocations to Lithuania, exceed the original total target of € 165 million, by €15 million, honouring the progress made by the Ignalina International Decommissioning Support Fund.

As the allocation under this programme represents the Community’s contribution to an international grant fund, this programme as such does not require co-financing by the Lithuanian authorities. The Lithuanian counterpart action lies in using its own resources from the national Lithuanian Ignalina NPP decommissioning fund to complement the support from the Ignalina International Decommissioning Support Fund and thus the means provided by its Contributors.

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

In the non-nuclear field, the European Community has directed PHARE support 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 closure in the town and area of Visaginas is the subject of socio-economic cohesion measures contained in the national PHARE programme for Lithuania in line with the Lithuanian regional development policy.

3. **IMPLEMENTATION**

a) **Financial and Project Management**

*Ignalina International Decommissioning Support Fund*
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 managed by the EBRD.

The Commission will transfer Community funds directly to the EBRD.

The management of the Fund is being undertaken by the EBRD within the framework of its Rules. The Assembly of Contributors takes definite decisions on project selection and subsequent grant agreements to be concluded between the Fund Manager and Lithuania.

The Fund rules ensure that the Commission takes part 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.

b) Contracting and Disbursement deadline

“Contracting” of the contribution from the Communities to the Fund must be concluded by 30 November 2004. The European Commission’s Contribution Letters to the Fund Manager represent acts of contracting in this regard. All disbursement to the Fund must be made by 30 November 2005. Payments from the Fund can be made during the period of the Fund being in force.

c) Recovery of Funds

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 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.

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.

d) Financial flows

The disbursement of payments provided under this programme is guided by the provisions of Article II of the Rules of the Ignalina International Decommissioning Support Fund.

4. MONITORING AND EVALUATION

Iugalina International Decommissioning Support Fund

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 its relation to compliance with closure commitments, the conditionalities set out in the project grant agreements, the administration of specific projects and possible problems of relevance to the programme.

5. AUDIT AND ANTI-FRAUD MEASURES

As far as applicable, the following audit and anti-fraud measures will apply:

a.) By the Candidate Countries

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 Community law 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:

(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 1681/9415.

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 at the end of each quarter.

b.) By the Commission

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.

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 measures such as ex-ante verification of tendering and contracting carried out by the Delegation in the Candidate Country concerned and on-the-spot checks.

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. 2185/9614.

The accounts and operations of the Ignalina International Decommissioning Support Fund 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 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

15 OJ L 178; 12.7.94; p. 43-46
14 OJ L 292; 15.11.1996; p. 2-5
taken to ensure appropriate publicity for the EU for all activities that it finances. 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 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 re-allocate unused funds for other purposes consistent with the objectives of the PHARE programme.
ANNEX D

INFORMATION AND PUBLICITY

1. Objective and scope

Information and publicity measures concerning assistance from the European Community 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 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 co-operation with the EC 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 EC 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:


Specific provisions concerning ISPA are included in:


Information and publicity measures must comply with the provisions of the above mentioned regulation and decision. A manual on compliance is available to national, regional and local authorities from the EC Delegation in the country concerned.

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 EC 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.

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

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

- billboards erected on the sites, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

- permanent commemorative plaques for infrastructures accessible to the general public, to be installed in accordance with the provisions of the regulation and decision mentioned in paragraph 2 above, and the technical specifications of the manual to be provided by the EC Delegation in the country concerned.

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

- measures to make potential beneficiaries and the general public aware of Phare, Ispa or Sapard assistance, in accordance with the provisions cited at paragraph 3(b)(i) above.

- measures targeting applicants for public aids part-financed by Phare, ISPA or SAPARD 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, ISPA or SAPARD Programmes in accordance with the provisions outlined above.

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 co-operation 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, Ispa or Sapard Programmes, is providing financial support. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the Programme in question. 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, ISPA or SAPARD in particular. Such 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 EC 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, Ispa or Sapard Programmes 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 EC 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, Ispa or Sapard should, on the title page, contain a clear indication of the EU 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 EU 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, Ispa or Sapard Programmes, 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 EUR 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 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 technical manual obtainable from EC Delegations, referred to above.

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 specifications outlined in the technical manual referred to above.

**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 part financing together with a mention of the relevant Programme (Phare, Ispa or Sapard).

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 EUR 1 million, the EU 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 EC 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. A manual will be prepared in the relevant national language, which will contain detailed design guidelines in electronic form and this will be available upon request.