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 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: 2003/005-825

Title: Establishing a Special Phare Programme to Support the Decommissioning of Nuclear Power Plants and Consequential Measures in the Energy Sector for Lithuania in 2003.


ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 30.00 M€ 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 2004 for Objective 1 and 30 November 2005 for Objective 2 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 2011 for Objective 1 and 30 November 2006 for Objective 2. 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.

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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. Framework Agreement incl. Annex A and Annex B; Annex C – Special Conditions (the text of the adopted financing proposal starting from Description and Objectives onwards; and Annex D 'Visibility/Publicity.
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 Vilnius
Date 24.12.2003

for THE RECIPIENT

[Signature]

Done at Vilnius
Date 19/12/2003

for THE COMMUNITY

[Signature]
Encl.
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)
ANNEX C

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 commitment.

This will be achieved through further support to the first phase of decommissioning of the INPP from 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

Objective 1: 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.

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 (attached in Annex 1). 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 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 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. 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 15 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. Since 2000, the Assembly has generally met twice per year.

Activites of the Fund

To date, the Assembly of Contributors of the Ignalina International Decommissioning Fund has approved three Grant Agreements, covering the following projects:

Grant Agreement No. 1:
“Project Management Unit – Phase I” (contracted, ongoing)

Grant Agreement No. 2:
“Interim Storage for RBMK Spent Fuel Assemblies” (tendering underway)
“Reliable heat and steam source for the Ignalina NPP and Visaginas” (tendering underway)
“Modernisation of the technical document archive of the INPP” (tendering underway)

Grant Agreement No. 3:
“Solid Waste Management and Storage Facility” (Grant agreement signed in May 2003)

This allocation will enable the Fund to put all these grant agreements into action.

Objective 2: 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 (2005-2006)

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 further continuation of the projects to provide “support to licensing activities related to the decommissioning of the Ignalina Nuclear Power Plant to VATESI and Lithuanian TSOs” LI/TS/10/99 and LI 01.17.02. The project will, in particular, address the continuation of support to the following tasks:

- Review of safety reports related to the implementation of decommissioning investment projects (e.g. dry store for spent nuclear fuel assemblies)
- Preparation for licensing of dismantling of Unit 1

Training programme

It should be noted that this list of tasks is indicative. The actual work to be done will depend on the results of the earlier regulatory assistance projects. The list of tasks will need to be updated in light of these results as well as of the concrete submissions of the INPP operator to the licensing authority VATESI regarding decommissioning measures due in 2005/06. To adapt the allocation of Phare funds from this programme to these needs, the European Commission and the Lithuanian Government will appropriately adapt the current Project Fiche (attached to this Financing Proposal) through a further Exchange of Letters before launching the implementation of the project.

Its implementation will be closely linked to the Phare-funded 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 Group1.

**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.

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1 CONCERT - Concertation group on European regulatory Tasks, consisting of nuclear regulatory authorities from EU Member States, candidate countries and NIS countries. The group exchanges informally, under the aegis of the Commission (TREN holds secretariat) views on nuclear regulatory matters including cooperation programmes.
2. **BUDGET (€ million)**

<table>
<thead>
<tr>
<th>Objective</th>
<th>Phare Funding</th>
<th>IFI</th>
<th>Total</th>
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<tbody>
<tr>
<td><strong>Objective 1: Ignalina International Decommissioning Support Fund</strong></td>
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<tr>
<td>Institution Building (IB)</td>
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<td><strong>Objective 2: VATESI</strong></td>
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<td><strong>TOTAL</strong></td>
<td>1.5</td>
<td>30</td>
<td>30</td>
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It is noted that €9 million were 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.

A further €35 million were programmed from the 2000 Special Programme, with the totality attributed to the Ignalina International Decommissioning Support Fund.

In 2001 a total of €55 million were programmed through Phare, of which €54 million contribution to the IIDSF, and €1 million in further support to VATESI.

2002 saw a further contribution to IIDSF of €80 million. To date, the complete amount of €178 million has been paid to the Fund; Projects LI/TS/10/99 and LI/01.17.02 are being implemented under DIS.

**Linked activities:**

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 closure of the INPP 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 which seeks to pilot the future use of Structural Funds in the region.

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1. Note that as a payment to the EBRD this is neither IB nor investment as understood by Phare.
Co-Financing

Co-financing practice regarding the special decommissioning support programmes is based on the Commission Decision of 6 September 2002, C(2002)3303-2, on the “Review of the Guidelines for Implementation of the Phare Programme in Candidate Countries for the Period 2000-2006 in application of Article 8 of Regulation 3906/89”, which specifies that programmes related to nuclear issues are governed by a special regime. Hence the principles governing the Commission’s policy on co-financing Community-supported investment projects are not being applied to the Special Programmes.

As the leading member of the Assembly of Contributors to the IIDSF, the Commission, on behalf of the European Community, is involved, on a project-by-project basis in defining the relative share of IIDSF compared to Lithuanian Government co-financing. In this context, it is important to note that the "Protocol on the Ignalina Nuclear Power Plant in Lithuania", annexed to the Act of Accession, Article 2 paragraph 6, states the following with regard to the follow-on "IIgnalina Programme":

"The contribution under the Ignalina Programme may, for certain measures, amount to up to 100 % of the total expenditure. Every effort should be made to continue the co-financing practice established under the pre-accession assistance for Lithuania’s decommissioning effort as well as to attract co-financing from other sources, as appropriate.”

3. IMPLEMENTATION

IIgnalina International Decommissioning Support Fund (project LT/2003.5825.01)

The funds allocated to support activities in Lithuania under this project, will be made available by means of the “IIgnalina International Decommissioning Support Fund” on the one hand, and through a Financing Memorandum with Lithuania on the other.

The appropriations for the “IIgnalina International Decommissioning Support Fund” will be implemented in joint management with the European Bank for Reconstruction and Development (EBRD), in accordance with Art. 53 1 c of the Financial Regulation applicable to the general budget of the European Communities3. To this end, the Commission will conclude a grant agreement with the EBRD (“Contribution Agreement”).

The EBRD has been appointed Manager of the Fund and entrusted with a number of implementation tasks. These tasks are laid out in the “Rules of the International Decommissioning Support Fund” (see annex). They ensure that the Commission takes part in the selection of projects and the ensuing funding decisions through its representation in the governing body of the fund (“Assembly of Contributors”). The Rules also establish, amongst other things, the Fund Manager’s general obligations with regard to administrative and operational support and reporting to the contributors.

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Rules on the eligibility of contractors from European Union Member States and Partner States shall be respected.

Phare contributions to the Fund will be disbursed in tranches in line with the relevant provisions of the “Contribution Agreement”.

The “Contribution Agreement” must be concluded by 30 November 2004. The execution of contracts procured by the Lithuania International Decommissioning Support Fund must be concluded by 30 November 2011.

_Institution Building at the Lithuanian nuclear safety authority VATESI (project LT/2003.5825.02)_

_a.) Financial and Project Management by the Candidate Country_

This part of the programme will be managed in accordance with the Phare Extended Decentralised Implementation System (EDIS) procedures as set down in the EDIS Accreditation Decision. Prior to said Decision, implementation will exceptionally follow Phare Decentralised Implementation System (DIS) procedures⁴. 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 Accreditation Decision and/or the DIS Manual as well as the other instructions of the Commission, and that all contracts required to implement the Financing Memorandum are awarded using the procedures and standard documents defined and most recently published by the European Commission for the implementation of External Actions. The NAC and the NAO shall be jointly responsible for co-ordination between Phare (including Phare CBC), ISPA and SAPARD as well as the Structural and Cohesion Funds.

The National Fund (NF) in the Ministry of Finance, headed by the NAO, will supervise the financial management of the Programme, and will be responsible for reporting to the European Commission. The NAO shall have overall responsibility for financial management of the Phare funds. He shall ensure that the Phare rules, regulations and procedures pertaining to procurement, reporting and financial management as well as Community state aid rules are respected, and that a reporting and project information system is functioning. This includes the responsibility of reporting all suspected and actual cases of fraud and irregularity. The NAO shall have the full overall accountability for the Phare funds of a programme until the closure of the programme.

The CPMA will be responsible for the project LT/03.5825.02

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The NF will transfer funds to IAs, including the Central Project Management Authority (CPMA), in accordance with Financing Agreements (FA) signed between the NFs and the IAs/CPMA 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 CPMA/IA there will be no transfer of funds from the NF to the CPMA/IA. The CPMA 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 CPMA/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 CPMA.

The NAO and PAOs will ensure that all contracts are prepared in accordance with the procedures set out by the Commission.

For those contracts with funds retained for a warranty period extending beyond the end of the execution of contracts related to 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/CPMA before the official closure of the programme. The IA/CPMA 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/CPMA 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.

b.) Project size

The VATES-I project is €1.5 million.

c.) Deadline for contracting and execution of contracts;

All contracts must be concluded by 30 November 2005, all execution of contracts must be completed by 30 November 2006. Any funds not used by the expiry date of the programme will be recovered by the Commission. Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted.
d.) Clearance of Accounts Procedure and Recovery of Funds

A clearance-of-accounts procedure in line with Art. 53 para 5 of the Financial Regulation\(^5\) and Art. 42 of the Implementing Rules to the Financial Regulation\(^6\) will be put in place.

Any proven irregularity or fraud\(^7\) 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.

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 two 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/CPMA 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.

\(^6\) Commission Regulation 2342/2002 of 23 December 2002
\(^7\) As defined under number 8a (Audit and Anti-fraud Measures by the Candidate Countries) of this document
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 Lithuania 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 (or “in a Bank agreed in advance with the Commission”).

aa) Transfer of Funds to the National Fund

A first transfer of up to 20% of the funds to be managed locally\(^8\), representing pre-financing will be sent to the NF following signature of the Financing Memorandum and the Financing Agreements (FAs) between the NF and the Implementing Agencies (IAs)/Central Finance and Contracts Unit (CPMA). 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 PAO’s and a description of the system put in place, highlighting the flow of information between the NF and the IA/CPMA 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\(^8\) will be made. The second transfer will be triggered when 5% of the budget\(^1\) has been disbursed by the IAs and the CPMA. The third transfer may be requested when 35% of the total budget\(^1\) in force has been disbursed. A fourth transfer will be made when 70% of the total budget\(^1\) in force is disbursed and when all expenditure has been incurred (i.e. fully contracted). No later than 2 months after all payments have been made the National Fund will submit a final declaration of expenditure, which will trigger a balancing operation of all transfers against final certified expenditure incurred, which at that point will be equal to payments made. (closure of expenditure)\(^9\).

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 HQ, no interim payments may be made if the trigger points mentioned above have not been respected.

\(^{8}\) as defined in Art. 81.1 b.i of the Financial Regulation

\(^{9}\) as defined in Art.105 of the Implementing Rules
bb.) Transfer of Funds to the Implementing Agencies

The National Fund will transfer funds to IAs, including the Central Financing and Contracting Unit (CPMA), in accordance with Financing Agreements (FAs) signed between the NFs and the IAs/CPMA where applicable. Bank accounts for sub-programmes shall be opened in the name of the relevant Implementing Agency/CPMA 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 CPMA/IA there will be no transfer of funds from the NF to the CPMA/IA. The CPMA 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 CPMA/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.

Interest

In principle, all bank accounts\(^ {10} \) 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.) Environmental Impact Assessment and Nature Conservation

The procedures for environmental impact assessment as set down in the EIA-directive\(^ {11} \) 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\(^ {12} \).

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\(^{10}\) in particular, but not exclusively, accounts run by the NF, the CPMA and IAs
\(^{11}\) DIR 85/377/EEC; OJ L 175/40; 5.7.1985; as amended by DIR 97/11/EEC; OJ L 73/5; 14.3.1997
\(^{12}\) in Annex EIA to the corresponding investment project fiche
If a project is likely to affect sites of nature conservation importance, an appropriate assessment according to Art. 6 of the Habitats-Directive\textsuperscript{13} must be documented\textsuperscript{14}.

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.

4. MONITORING AND ASSESSMENT

\textit{Ignalina 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 eventual problems of relevance to the programme.

\textit{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 (2005-2006)}

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.

\textsuperscript{13} DIR 92/43/EEC; OJ 206/7; 22.7.1992
\textsuperscript{14} in \textit{Annex Nature Conservation} to the corresponding investment project fiche
5.) Audit and Anti-Fraud Measures

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 national or Community law, 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:

(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.

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.

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15 in accordance with the rules set down in Art. 54 of the Financial Regulation
16 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.).
17 OJ L 178; 12.7.94; p. 43-46
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\(^{18}\).

The accounts and operations of the National Fund, and, where applicable, the CPMA 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 AND PUBLICITY

The EBRD will be responsible for ensuring that the necessary measures are taken to ensure appropriate publicity for all IIDSF - related 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.

For the VATESI - related project, 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)*

17. 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.

\(^{18}\) OJ L 292; 15.11.1996; p. 2-5