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 Slovak Republic, 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 10 May 1994 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: SR9922
Title: 1999 Special Programme to Support the Decommissioning of Nuclear Power Plants and Consequential Measures in the Energy Sector – Slovak Republic
Duration: Until 31/12/2001

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of € 10 million hereinafter referred to as "THE EC GRANT".

ARTICLE 3 - DURATION AND EXPIRY

For the present MEASURE, THE EC GRANT is hereby available for contracting until 31/12/2001 subject to the provisions of this Memorandum. All contracts must be signed by this date. Any balance of funds of the EC GRANT which have not been contracted by this date shall be cancelled. The deadline for disbursement of THE EC GRANT is 31/12/2002. 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. Walter ROCHEL
EC Delegation - Bratislava
Head of Delegation
Panska 3
81101 BRATISLAVA
Slovak Republic

Tel: + 421.7.54431718
Fax: +421.7.54432972

for THE RECIPIENT:

Mr. Pavol Harnzik
Deputy Prime Minister
National Phare Coordinator
Office of the Government
Namestie Slobody 1
81106 BRATISLAVA
Slovak Republic

Tel: 421.7.391284
Fax: 421.7.396.759

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.
for THE RECIPIENT

Annex 1 Framework Agreement (Annexes A & B)
Annex 2 Special Provisions (Annex C)

for THE COMMUNITY
1. OBJECTIVES AND DESCRIPTION

General objectives

Based on the conclusions of the Joint EC-Slovak Working Group on Nuclear Energy and on existing Commission reports on the current situation in the Slovak Republic as regards decommissioning, the general objective of this programme is to assist the Slovak authorities to develop and implement a detailed plan for the decommissioning of the Bohunice V1 NPP. The present programme aims mainly to create a special fund to support the decommissioning activities which are deemed necessary or appropriate prior to the final shutdown of the Bohunice V1 reactors as well as to support activities required in the energy sector in general to ensure security of energy service following the final shutdown of the plant. However, some selected activities, in particular support to the nuclear regulatory authorities, will be funded outside the planned special fund.

Specific objectives

Annex I contains an indicative list of the type of projects which would be eligible for financing under the present programme.

The timing of the decision to establish this programme has been determined by the political imperatives of the European Union’s stance on nuclear safety improvements as an important parameter of accession. The Commission’s pre-accession support needs to be geared to this end.

At the time of the decision, the projects to be supported by this programme can only be outlined as mentioned in Annex. The Slovak authorities will submit appropriate and detailed documentation at individual project level in order to make final project selection possible.

In view of the importance of candidate countries with non-upgradable nuclear power reactors (Lithuania with Ignalina, the Slovak Republic with Bohunice V1 and Bulgaria with Kozoduy) to initiate the closure of the respective reactors in accordance with their pre-accession obligations, international support to their efforts needs to be pooled, to ensure the maximum possible effect. This is why the bulk of the funds provided under this financing proposal will in principle be made available to a special financial instrument, presently known under the working title of the ‘Bohunice Decommissioning Fund’. This grant fund will be managed by the European Bank for Reconstruction and Development (EBRD). The management rules will be the subject of a separate arrangement between the European Commission and the EBRD.

2. TOTAL BUDGET (in million €)

The total budget available for the Slovak Republic under this programme amounts to 10 million €.
An amount of 1.25% of the Phare contribution to the grant fund shall be used for EBRD's programme management fees for the implementation of the above-mentioned eligible activities.

3. IMPLEMENTATION

In principle, the bulk of the funds allocated to support activities under this decision, will be made available to the Slovak Republic by means of the “Bohunice Decommissioning Fund”, a grant fund which is intended to be managed by the European Bank for Reconstruction and Development (EBRD). This fund will enable the pooling international grant support to the decommissioning of the Bohunice V1 NPP. Some selected activities, in particular PHARE support to the regulatory authorities, will be supported by means of the Decentralised Implementation System.

The Commission will make financial means available to the “Bohunice Decommissioning Fund” from this special programme. The management of the fund is to be undertaken by the EBRD within the framework of the Memorandum of Understanding between the European Commission, the European Bank for Reconstruction and Development and the International Bank for Reconstruction and Development on Co-operation for Pre-Accession Preparation of Central and European Countries, established in Brussels on 3 February 1998. Final decisions on eligibility as well as project selection will be taken by the steering body of the ‘Bohunice Decommissioning Fund’, taking into consideration, if needed, the advice of relevant expert bodies.

The salient elements of the collaboration between the Commission and the EBRD and of the use of the funds allocated under this programme will be determined by an agreement to be established between the Commission and the EBRD. This agreement will ensure that the Commission retains control on the selection of projects and is able to supervise the project implementation. The Commission will receive regular progress reports from the Fund’s management and participate in the steering body of the Fund. The agreement will 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 will be included in the agreements with the EBRD, taking due regard to: I) the possible need to procure specific items required for the decommissioning of Bohunice V1 from providers outside this group of countries, due to the ex-Soviet design of this nuclear power plant; II) the contribution of possible donors to the Fund.

The described provisions for the implementation of the programme will be the subject of a Financing Memorandum or an Exchange of Letters between the Commission and the Government of the Slovak Republic.

4. MONITORING AND ASSESSMENT

Implementation will be monitored by a Monitoring Sub-Committee (MSC) of the Joint Monitoring Sub-committee (JMC) established for the Slovak Republic in the context of the PHARE JMC mechanism.
The Commission services shall monitor the implementation of the Financing Proposal. This will be done on the basis of regular progress reports prepared by the EBRD under the arrangement to be made under the Commission and the EBRD and other relevant information available to the Commission. These reports will assess progress both at the Facility and project levels, indicating compliance with this Financing Proposal.

The Commission shall exercise its responsibility over the use of funds through these regular reports and audited accounts. Funding of the “Bohunice Decommissioning Fund” may be terminated if the EBRD fails to perform any of its material obligations under the Commission/EBRD arrangement.

In addition, the Commission monitoring and evaluation units may also carry out operational assessments and one ex-post evaluation if deemed necessary.

5. AUDIT AND EVALUATION

The accounts and operations of the Phare grant under the “Bohunice Decommissioning Fund” and, if applicable, of the National Fund and the CFCU, 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 European Union’s Court of Auditors as referred to in the General Conditions relating to the Financing Memorandum attached to the Framework Agreement.

In addition, the use of Phare funds under the Facility and the operations of the Facility shall be audited by the EBRD and the resulting findings shall be reported in the Annual Report of the EBRD. There shall be full co-ordination between the EBRD, the Commission and Court of Auditors to minimise any potential disruption to activities.

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

6. VISIBILITY/PUBLICITY

The arrangement to be concluded between the Commission and the EBRD will ensure that the necessary measures are taken to ensure appropriate publicity for the EU for all the activities financed from this programme.

7. SPECIAL CONDITIONS

In the event that agreed commitments are not met for reasons which are within the control of the Government of the Slovak Republic, 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 global Phare programme.

The funding of the "Bohunice Decommissioning Fund" can be terminated if the resources as outlined in this Financing Proposal are not designated for projects by the steering body of the fund.
The funding of the ‘Bohunice Decommissioning Fund’ may be terminated if the EBRD or Commission fails to perform any of their material obligations under the Facility.

Any Phare funds on the “Bohunice Decommissioning Fund” at termination shall be returned to the Commission in accordance with the rules and regulations of the Special Fund. Any funds remaining due to the Fund at termination shall be returned to the Commission when such resources are received in the Fund.

8. CONDITIONALITY

This programme is designed to support the Slovak Republic’s effort to decommission the Bohunice V1 Nuclear Power Plant, in accordance with the decision taken by the Slovak Government in September 1999. The disbursement of means allocated under this programme has both, to encourage and to support the swift progress to implement the priority steps for the decommissioning of Bohunice V1. Neither will support be held hostage to delay, nor will it flow without due regard to progress made by the Slovak legislative, administrative and regulatory bodies as well as the Slovak State as sole owner of the plant. The representation of the Commission in the steering body of the “Bohunice Decommissioning Fund” will therefore be charged to decide on the disbursement of available means in a sequence that will best promote progress to achieve the aim of decommissioning Bohunice V1.

A pre-condition for the implementation of the present programme is the adoption by the Slovak Republic of a Energy Policy in line with the objectives of the programme.
Annex

SUMMARY DESCRIPTION OF THE ACTIVITIES INTENDED TO BE FINANCED IN THE FRAMEWORK OF THIS PROGRAMME

A Technical Assistance for the decommissioning process

1 Support for the elaboration of a detailed plan for decommissioning units 1 and 2 at Bohunice V1. Development of an information and management system

2 Support for elaborating a comprehensive analysis of the consequences of decommissioning Bohunice V1. Detailed analysis of energy policy options including sector restructuring, enhancing energy efficiency and the use of renewable energy.

3 Support for the establishment of the necessary institutional framework for implementing the shutting down and decommissioning plan, including the possible organisation of a donors’ conference

4 Technical assistance on the legal framework necessary for decommissioning Bohunice V1. Technical assistance to define the regulatory requirements for a decommissioning plan and to licensing its implementation. Support for the preparation of the detailed documentation necessary for the decommissioning process

5 Preparation of technical specifications for waste facilities. Elaboration of a strategy for final disposal facilities for short and long lived waste.

B Investment support

Contribution to the handling of radioactive waste resulting from the decommissioning