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 10/05/1994 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: 2002/000-626
Title: 2002 Special Programme to support the decommissioning of Bohunic V1 nuclear power plant and consequential measures in the energy sector in Slovakia
Duration: Until 30/11/2004

ARTICLE 2 - COMMITMENT OF THE COMMUNITY

The financial contribution of THE COMMUNITY is fixed at a maximum of 10 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 30/11/2004 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. Eric van der Linden,
EC Delegation in the Slovak Republic
Panska 3,
811 01 Bratislava-Slovak republic

Tel:  (+421-2) 5443 1718
Fax:  (+421-2) 5443 2989

for THE RECIPIENT:

Mr. Paul Csaky
Deputy Prime Minister for European Integration
Namestie Slobody 1
81370 Bratislava-Slovak Republic
Slovak Republic

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  3 1  01  2003

for THE RECIPIENT

DATE

Done at ..............
Date  3 1 - 01 - 2003

for THE COMMUNITY

Eric van der Linden
Head of Delegation
Encl.
1. Framework Agreement (Annexes A & B)
2. Special Provisions (Annex C)
3. Visibility/Publicity (Annex D)
ANNEXE C

1. OBJECTIVES AND DESCRIPTION

General objectives

The overall objective of the ‘Special Programme’ is to assist Slovakia's preparation for membership of the EU in relation to the nuclear and energy sectors especially by facilitating the preparation and implementation of Slovakia’s early closure decision of 14 September 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 Bohunice V1 Nuclear Power Plant, and measures consequential to the decision of the early closure of the plant required for the necessary restructuring, upgrading and modernisation of the energy production, transmission and distribution sectors, and improving energy efficiency.

The ‘Special Programme’ will contribute to the international efforts to share the financial implications of the early closure and decommissioning of the Bohunice V1 NPP with the Slovak authorities.

Specific objectives

The specific objective of this programme is to contribute to the “Bohunice International Decommissioning Support Fund”. The purpose of this Fund is to finance or co-finance, through specific grants, two main areas of work:

(i) decommissioning activities concerning the units 1 and 2 of the Bohunice V1 NPP (nuclear projects “window”);
(ii) measures which are consequential to the decision taken to close and decommission the above-mentioned units 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”)

Support will be ensured through the provision of goods, works and services.

The "Bohunice International Decommissioning Support Fund"

The Fund - established by the EBRD Board of Directors on 12 June 2000 - will be 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, will provide technical, project management, financial, legal and administrative services. Project financing will be conditional upon the Assembly of Contributors being satisfied that Slovakia 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 operation through the first meeting of its Assembly of Contributors held on 16 November 2001. On this occasion, the Bank and the Slovak Republic signed a Grant Framework Agreement, which became a valid and legally binding international agreement in June 2002 after the adoption by the Slovak Parliament of the Act on tax and customs duty exemption for projects financed under the Fund. On the occasion of the first Assembly of Contributors as well, the Assembly adopted the first budget and the work programme of the Fund. With numbers increasing, currently seven Contributors support the international grant fund, mainly Member State 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 Slovak authorities have elaborated a project pipeline for the early shut down and decommissioning of Bohunice V1. These project proposals are split into four categories including preparation for final shutdown, decommissioning documentation, waste management and measures in the energy sector (non-nuclear projects “window”). These projects are still being further elaborated and submitted to the Fund Manager and the Assembly of Contributors of the Bohunice International Decommissioning Support Fund to decide upon concrete proposals for funding under grant agreements to be signed between the Fund Manager and the beneficiary. At this stage, individual projects are not yet sufficiently mature to allow for grant decisions to be taken by the Contributors. Such decisions will be due during 2003.

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\(^1\). 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

\(^1\) A initial and limited amount of operational costs can be covered from the present Commission 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.
The Commission 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 as well as project selection will be taken by the Assembly of Contributors of the Fund.

The Fund rules ensure that the Commission takes part in the selection of projects, receives regular progress reports from the Fund’s management and participates 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 Commission 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 Bohunice International Decommissioning Support Fund.

4. MONITORING AND ASSESSMENT

Bohunice 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.

5. ANTI-FRAUD MEASURES, AUDIT AND EVALUATION

Bohunice International Decommissioning Support Fund

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. 2185/96.
6. VISIBILITY/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 Delegation. The Fund rules will 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 Slovakia, 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.
ANNEX D

INFORMATION AND PUBLICITY FOR THE PHARE, ISPA AND SAPARD PROGRAMMES OF THE EUROPEAN COMMUNITIES

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.