

CONFORMED COPY

LOAN NUMBER 3737 LT

Project Agreement

(Power Rehabilitation Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

LITHUANIA STATE POWER SYSTEM

Dated January 27, 1995

LOAN NUMBER 3737 LT

PROJECT AGREEMENT

AGREEMENT, dated January 27, 1995, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and LITHUANIA STATE POWER SYSTEM (LSPS).

WHEREAS (A) by the Loan Agreement of even date herewith between Republic of Lithuania (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to twenty-six million four hundred thousand dollars (\$26,400,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that LSPS agree to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and LSPS, a part of the proceeds of the loan provided for under the Loan Agreement will be relented to LSPS on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS LSPS, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed to undertake

the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Loan Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) LSPS declares its commitment to the objectives of the Project as set forth in Schedule 1 to the Loan Agreement, and, to this end, shall carry out Parts A, B and C (1), (2) and (3) of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and public utility practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Parts A, B and C (1), (2) and (3) of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and LSPS shall otherwise agree, LSPS shall carry out Parts A, B and C (1), (2) and (3) of the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the goods and consultants' services required for Parts A, B and C(1), (2) and (3) of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. LSPS shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement and Parts A, B and C (1), (2) and (3) of the Project.

Section 2.04. LSPS shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, LSPS shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) LSPS shall, at the request of the Bank, exchange views with the Bank with regard to the progress of Parts A, B and C (1), (2) and (3) of the Project, the performance of its obligations under this Agreement and under the Subsidiary Loan Agreement, and other matters relating to the purposes of the Loan.

(b) LSPS shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of Parts A, B and C (1), (2) and (3) of the Project, the accomplishment of the purposes of the Loan, or the performance by LSPS of its obligations under this Agreement and under the Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of LSPS

Section 3.01. LSPS shall carry on its operations and conduct

its affairs in accordance with sound administrative, financial, engineering and public utility practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. LSPS shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and public utility practices.

Section 3.03. LSPS shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) LSPS shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) LSPS shall:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year: (A) certified copies of its financial statements for such year as so audited, and (B) the report of such audit by said auditors of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Bank shall from time to time reasonably request.

Section 4.02. (a) Except as the Bank shall otherwise agree, LSPS shall not incur any debt unless a reasonable forecast of the revenues and expenditures of LSPS shows that the estimated net revenues of LSPS for each fiscal year during the term of the debt to be incurred shall be at least 1.5 times the estimated debt service requirements of LSPS in such year on all debt of LSPS including the debt to be incurred.

(b) For the purposes of this Section:

- (i) The term "debt" means any indebtedness of LSPS maturing by its terms more than one year after the date on which it is originally incurred.
- (ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
- (iii) The term "net revenues" means the

difference between:

- (A) the sum of revenues from all sources related to operations and net non-operating income; and
 - (B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.
- (iv) The term "net non-operating income" means the difference between:
- (A) revenues from all sources other than those related to operations; and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.
- (vi) The term "reasonable forecast" means a forecast prepared by LSPS not earlier than twelve months prior to the incurrence of the debt in question, which both the Bank and LSPS accept as reasonable and as to which the Bank has notified LSPS of its acceptability, provided that no event has occurred since such notification which has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition or future operating results of LSPS.
- (vii) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Bank.

Section 4.03. LSPS, together with the Borrower and the Bank, shall carry out, by June 30, 1997, a comprehensive mid-term review of implementation of the Project on the basis of performance criteria satisfactory to the Bank.

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of LSPS thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify LSPS thereof.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any

cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America
Cable address:

Telex:

INTBAFRAD	248423 (RCA)
Washington, D.C.	82987 (FTCC)
	64145 (WUI) or
	197688 (TRT)

For LSPS:

Lithuania State Power System
14 Zveju St.
2600 Vilnius
Lithuania

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of LSPS, or by LSPS on behalf of the Borrower under the Loan Agreement, may be taken or executed by the General Director or such other person or persons as the General Director shall designate in writing, and LSPS shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ B. Kavalsky

Acting Regional Vice President
Europe and Central Asia

LITHUANIA STATE POWER SYSTEM

By /s/ A. Eidintas

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I: Procurement of Goods

Part A: International Competitive Bidding

1. Except as provided in Part C hereof, goods shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines).

(a) For fixed-price contracts, the invitation to bid referred to in paragraph 2.13 of the Guidelines shall provide that, when contract award is delayed beyond the original bid validity period, the successful bidder's bid price will be increased for each week of delay by two predisclosed correction factors acceptable to the Bank, one to be applied to all foreign currency components and the other to the local currency component of the bid price. Such an increase shall not be taken into account in the bid evaluation.

(b) In the procurement of goods in accordance with this Part A, LSPS shall use the relevant standard bidding documents issued by the Bank, with such modifications thereto as the Bank shall have agreed to be necessary for the purposes of the Project. Where no relevant standard bidding documents have been issued by the Bank, LSPS shall use bidding documents based on other internationally recognized standard forms agreed with the Bank.

2. To the extent practicable, contracts for goods shall be grouped into bid packages estimated to cost the equivalent of \$300,000 or more.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A.1 hereof, goods manufactured in Lithuania may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part C: Other Procurement Procedures

1. Items or groups of items for goods estimated to cost less than the equivalent of \$300,000 per contract, up to an aggregate amount equivalent to \$1,000,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers from at least three different countries eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

2. Contracts for spare parts which are of a proprietary nature, estimated to cost in the aggregate the equivalent of \$2,500,000, may be awarded after direct negotiations with suppliers, in accordance with procedures acceptable to the Bank.

Part D: Review by the Bank of Procurement Decisions

1. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract for goods estimated to cost the equivalent of \$200,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Bank pursuant to said paragraph 2 (d) shall be furnished to the Bank prior to the making of the first payment out of the Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Bank pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 5 to the Loan Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Loan Account are to be made on the basis of statements of expenditure.

2. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II: Employment of Consultants

1. In order to assist LSPS in carrying out Parts C (1), (2) and (3) of the Project, LSPS shall employ public utility consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by The World Bank as Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, LSPS shall employ such consultants under contracts using the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, LSPS shall use other standard forms agreed with the Bank.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultants' Guidelines requiring prior Bank review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts shall not apply to (a) contracts estimated to cost less than \$100,000 equivalent each or (b) contracts for the employment of individuals estimated to cost less than \$50,000 equivalent each. However, this exception to prior Bank review shall not apply to the terms of reference for such contracts, to single source selection of firms, to assignments of a critical nature as reasonably determined by the Bank or to amendments of contracts for employment of consulting firms raising the contract value to \$100,000 equivalent or above or amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

Implementation Program

1. The International Relations Department (IRD) of LSPS, through a project manager and an assistant project manager, together with adequate and qualified staff satisfactory to the Bank, shall be responsible for coordinating all activities under Parts A, B and C(1), (2) and (3) of the Project, including the carrying out, together with the Borrower, of the Plan of Action referred to in Schedule 5 to the Loan Agreement.
 2. LSPS shall carry out, through its IRD, Parts A, B and C (1), (2) and (3) of the Project in accordance with an implementation schedule and Project indicators agreed with the Borrower, the Bank and LSPS.
 3. LSPS shall, by December 31, 1995, adopt all measures necessary to ensure (i) the maintenance of the average collection period at 45 days for domestic electricity bills, and (ii) the reduction of the average collection period for heat bills to 100 days by December 31, 1994, 90 days by December 31, 1995, 80 days by December 31, 1996, 70 days by December 31, 1997 and 60 days by December 31, 1998.
- 