



CR 5238-NE



CREDIT NUMBER 5238-NE

# Financing Agreement

(Second Shared Growth Credit)

between

REPUBLIC OF NIGER

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated June 7, 2013



A handwritten mark resembling a stylized signature or the letter 'B' in the bottom right corner.

**CREDIT NUMBER 5238-NE**


**FINANCING AGREEMENT**

AGREEMENT dated June 7, 2013, entered into between REPUBLIC OF NIGER (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) for the purpose of providing financing in support of the Program (as defined in the Appendix to this Agreement). The Association has decided to provide this financing on the basis, inter alia, of: (a) the actions which the Recipient has already taken under the Program and which are described in Section I of Schedule 1 to this Agreement; and (b) the Recipient’s maintenance of an adequate macroeconomic policy framework. The Recipient and the Association therefore hereby agree as follows:

**ARTICLE I — GENERAL CONDITIONS; DEFINITIONS**

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

**ARTICLE II — FINANCING**

- 2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a credit in an amount equivalent to thirty three million and one hundred thousand Special Drawing Rights (SDR 33,100,000) (variously, “Credit” and “Financing”).
  - 2.02. The Recipient may withdraw the proceeds of the Financing in support of the Program in accordance with Section II of Schedule 1 to this Agreement.
  - 2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.
  - 2.04. The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.
  - 2.05. The Payment Dates are March 15 and September 15 in each year.
  - 2.06. The principal amount of the Credit shall be repaid in accordance with repayment schedule set forth in Schedule 2 to this Agreement.
  - 2.07. The Payment Currency is the Euro.
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**ARTICLE III — PROGRAM**

- 3.01. The Recipient declares its commitment to the Program and its implementation. To this end:
- (a) the Recipient and the Association shall from time to time, at the request of either party, exchange views on the Recipient's macroeconomic policy framework and the progress achieved in carrying out the Program;
  - (b) prior to each such exchange of views, the Recipient shall furnish to the Association for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Association shall reasonably request; and
  - (c) without limitation upon the provisions of paragraphs (a) and (b) of this Section, the Recipient shall promptly inform the Association of any situation that would have the effect of materially reversing the objectives of the Program or any action taken under the Program including any action specified in Section I of Schedule 1 to this Agreement.

**ARTICLE IV — REMEDIES OF THE ASSOCIATION**

- 4.01. The Additional Event of Suspension consists of the following, namely, that a situation has arisen which shall make it improbable that the Program, or a significant part of it, will be carried out.
- 4.02. The Additional Event of Acceleration consists of the following, namely, that the event specified in Section 4.01 of this Agreement occurs.

**ARTICLE V — EFFECTIVENESS; TERMINATION**

- 5.01. The Additional Condition of Effectiveness consists of the following, namely, that the Association is satisfied with the progress achieved by the Recipient in carrying out the Program and with the adequacy of the Recipient's macroeconomic policy framework.
- 5.02. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

**ARTICLE VI — REPRESENTATIVE; ADDRESSES**

- 6.01. The Recipient's Representative is the Recipient's Minister responsible for planning.



6.02. The Recipient's Address is:

Ministère du Plan, de l'Aménagement du Territoire et du Développement  
Communautaire  
B.P. 862  
Niamey  
Republic of Niger

6.03. The Association's Address is:

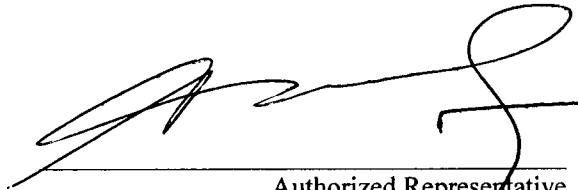
International Development Association  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:	Telex:	Facsimile:
INDEVAS Washington, D.C.	248423(MCI)	1-202-477-6391

AGREED at Niamey, Republic of Niger, as of the day and year first above written.

REPUBLIC OF NIGER

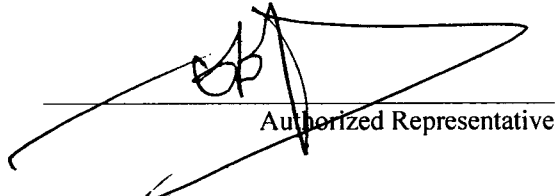
By



Authorized Representative  
Name: H.E. Amadou Boubacar Cisse  
Title: Minister of State, Minister of Planning,  
Land Management and Community Development

INTERNATIONAL DEVELOPMENT ASSOCIATION

By



Authorized Representative  
Name: Ousmane Diagana  
Title: Country Director for Niger  
Africa Region

## SCHEDULE 1

### Program Actions; Availability of Financing Proceeds

#### Section I. Actions under the Program

The actions taken by the Recipient under the Program include the following:

#### Establishing a competitive and diversified economy for accelerated and inclusive growth:

1. The Recipient has issued instructions for the selection and execution of tax audits and inspections, containing provisions to reduce multiple firm visits as well as a coherent procedure for the selection of cases that will be examined.
2. The Recipient has issued regulations concerning road blocks and controls, defining the type of controls, location of road blocks, and recourse mechanisms, in order to minimize the risk of abusive practices for merchandise transport in the Recipient's territory.
3. The Recipient has adopted a new Labor Code, which describes the legal framework for dual apprenticeships.

#### Food Security and Sustainable Agricultural Development:

4. The Recipient has established and commenced implementation of mechanisms for the competitive financing of agricultural research and the adaptation of technologies to strengthen the link between agricultural research and the needs of producers.

#### Efficacy of Public Spending:

5. The Recipient has transposed the WAEMU directives with respect to the general regulations governing public accounting, budget nomenclature, government accounting, the chart of accounts and the table for government operations into its national law.
6. The Recipient's ministry responsible for finance has created a directorate to supervise state-owned enterprises.
7. The Recipient has issued regulations for the implementation of the new Procurement Code, including on: (i) the creation, responsibilities and organization of regional representations of the Public Procurement Regulatory Agency; (ii) the creation, responsibilities, composition, and functioning of ad hoc commissions for bid opening and evaluation of parastatal enterprises and organizations; (iii) the creation, responsibilities, composition, and functioning of



ad hoc commissions for bid opening and evaluation of local authorities; (iv) procurement thresholds; (v) responsibilities of procurement units; (vi) the creation, responsibilities, composition, and functioning of ad hoc commissions for bid opening and evaluation of the central government; and (vii) procurement deadlines.

8. Independent audits of public procurement in 2009 and 2010 have been completed and the Recipient has published: (i) the audit reports on its web site, and (ii) a summary of the auditors' findings in the *Le Sahel* newspaper.

**Section II. Availability of Financing Proceeds**

- A. General.** The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of this Section and such additional instructions as the Association may specify by notice to the Recipient.
- B. Allocation of Financing Amounts.** The Financing is allocated in a single withdrawal tranche, from which the Recipient may make withdrawals of the Financing. The allocation of the amounts of the Financing to this end is set out in the table below:

<b>Allocations</b>	<b>Amount of the Financing Allocated (expressed in SDR)</b>
(1) Single Withdrawal Tranche	33,100,000
<b>TOTAL AMOUNT</b>	<b>33,100,000</b>

**C. Withdrawal Tranche Release Conditions**

No withdrawal shall be made out of the Single Withdrawal Tranche unless the Association is satisfied: (a) with the Program being carried out by the Recipient; and (b) with the adequacy of the Recipient's macroeconomic policy framework.

- D. Deposits of Financing Amounts.** Except as the Association may otherwise agree:
1. all withdrawals from the Financing Account shall be deposited by the Association into a dedicated account designated by the Recipient ("Deposit Account") and acceptable to the Association; and
  2. the Recipient shall ensure that upon each deposit of an amount of the Financing into the Deposit Account, an equivalent amount is accounted for in the Recipient's budget management system, in a manner acceptable to the Association.

**E. Audit.** If the Association so requests, the Recipient shall:

1. have the Deposit Account audited by independent auditors acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association;
2. furnish to the Association as soon as available, but in any case not later than four (4) months after the end of the Recipient's fiscal year, a certified copy of the report of such audit, of such scope and in such detail as the Association shall reasonably request; and
3. furnish to the Association such other information concerning the Deposit Account and its audit as the Association shall reasonably request.

**F. Excluded Expenditures.** The Recipient undertakes that the proceeds of the Financing shall not be used to finance Excluded Expenditures. If the Association determines at any time that an amount of the Financing was used to make a payment for an Excluded Expenditure, the Recipient shall, promptly upon notice from the Association, refund an amount equal to the amount of such payment to the Association. Amounts refunded to the Association upon such request shall be cancelled.

**G. Closing Date.** The Closing Date is June 30, 2014.



**SCHEDULE 2**

**Repayment Schedule**

<b>Date Payment Due</b>	<b>Principal Amount of the Credit repayable (expressed as a percentage)*</b>
On each March 15 and September 15:	
commencing September 15, 2023, to and including March 15, 2033	1%
commencing September 15, 2033, to and including March 15, 2053	2%

\* The percentages represent the percentage of the principal amount of the Credit to be repaid, except as the Association may otherwise specify pursuant to Section 3.03(b) of the General Conditions.





**APPENDIX**

**Section I. Definitions**

1. "Deposit Account" means the Recipient's account referred to in Section II.D and Section II.E of Schedule 1 to this Agreement.
2. "Excluded Expenditure" means any expenditure:
  - (a) for goods or services supplied under a contract which any national or international financing institution or agency other than the Association or the Bank has financed or agreed to finance, or which the Association or the Bank has financed or agreed to finance under another credit, grant or loan;
  - (b) for goods included in the following groups or sub-groups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Recipient:

Group	Sub-group	Description of Item
112		Alcoholic beverages
121		Tobacco, un-manufactured, tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitutes)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors
728	728.43	Tobacco processing machinery
897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971		Gold, non-monetary (excluding gold ores and concentrates)

- (c) for goods intended for a military or paramilitary purpose or for luxury consumption;

- (d) for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Recipient or international agreements to which the Recipient is a party;
  - (e) on account of any payment prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and
  - (f) with respect to which the Association determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Recipient or other recipient of the Financing proceeds, without the Recipient (or other such recipient) having taken timely and appropriate action satisfactory to the Association to address such practices when they occur.
3. "General Conditions" means the "International Development Association General Conditions for Credits and Grants", dated July 31, 2010, with the modifications set forth in Section II of this Appendix.
  4. "Labor Code" means the Recipient's code enacted pursuant to the Recipient's law no. 2012-45 dated September 25, 2012.
  5. "Procurement Code" means the Recipient's code enacted pursuant to the Recipient's decree no. 2011-686/PRN/PM dated December 29, 2011.
  6. "Program" means the program of actions, objectives and policies designed to promote growth and achieve sustainable reductions in poverty and set forth or referred to in the letter dated March 14, 2013, from the Recipient to the Association declaring the Recipient's commitment to the execution of the Program, and requesting assistance from the Association in support of the Program during its execution.
  7. "Public Procurement Regulatory Agency" means the agency established by, and operating under, the Recipient's decree no. 2004-190/PRN/ME/F dated July 6, 2004, on the composition, organization and methods of operation of the Recipient's agency for the regulation of procurements.
  8. "Single Withdrawal Tranche" means the amount of the Financing allocated to the category entitled "Single Withdrawal Tranche" in the table set forth in Part B of Section II of Schedule 1 to this Agreement.
  9. "WAEMU" means the West African Economic and Monetary Union.



## Section II. Modifications to the General Conditions

The modifications to the General Conditions are as follows:

1. The last sentence of paragraph (a) of Section 2.03 (relating to Applications for Withdrawal) is deleted in its entirety.
2. Sections 2.04 (*Designated Accounts*) and 2.05 (*Eligible Expenditures*) are deleted in their entirety, and the remaining Sections in Article II are renumbered accordingly.
3. Sections 4.01 (*Project Execution Generally*), and 4.09 (*Financial Management; Financial Statements; Audits*) are deleted in their entirety, and the remaining Sections in Article IV are renumbered accordingly.
4. Paragraph (a) of Section 4.05 (renumbered as such pursuant to paragraph 3 above and relating to *Use of Goods, Works and Services*) is deleted in its entirety.
5. Paragraph (c) of Section 4.06 (renumbered as such pursuant to paragraph 3 above) is modified to read as follows:

“Section 4.06. *Plans; Documents; Records*

... (c) The Recipient shall retain all records (contracts, orders, invoices, bills, receipts and other documents) evidencing expenditures under the Financing until two years after the Closing Date. The Recipient shall enable the Association’s representatives to examine such records.”

6. Section 4.07 (renumbered as such pursuant to paragraph 3 above) is modified to read as follows:

“Section 4.07. *Program Monitoring and Evaluation*

... (c) The Recipient shall prepare, or cause to be prepared, and furnish to the Association not later than six months after the Closing Date, a report of such scope and in such detail as the Association shall reasonably request, on the execution of the Program, the performance by the Recipient and the Association of their respective obligations under the Legal Agreements and the accomplishment of the purposes of the Financing.”

7. The following terms and definitions set forth in the Appendix are modified or deleted as follows, and the following new terms and definitions are added in alphabetical order to the Appendix as follows, with the terms being renumbered accordingly:



- (a) The definition of the term “Eligible Expenditure” is modified to read as follows:

“‘Eligible Expenditure’ means any use to which the Financing is put in support of the Program, other than to finance expenditures excluded pursuant to the Financing Agreement.”

- (b) The term “Financial Statements” and its definition as set forth in the Appendix are deleted in their entirety.

- (c) The term “Project” is modified to read “Program” and its definition is modified to read as follows:

“‘Program’ means the program referred to in the Financing Agreement in support of which the Financing is made.” All references to “Project” throughout these General Conditions are deemed to be references to “Program”.