

CONFORMED COPY

CREDIT NUMBER 3581 NEP

Project Agreement

(Telecommunications Sector Reform Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

NEPAL TELECOMMUNICATIONS AUTHORITY

Dated February 5, 2002

CREDIT NUMBER 3581 NEP

PROJECT AGREEMENT

AGREEMENT, dated February 5, 2002, between the INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and the NEPAL TELECOMMUNICATIONS AUTHORITY (NTA).

WHEREAS (A) by the Development Credit Agreement of even date herewith between

the Kingdom of Nepal (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to seventeen million five hundred thousand Special Drawing Rights (SDR 17,500,000), on the terms and conditions set forth in the Development Credit Agreement, but only on conditions that NTA agree to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by a Grant Agreement to be entered into between the Borrower and NTA, a portion of the proceeds of the credit provided for under the Development Credit Agreement will be made available to NTA on the terms and conditions set forth in said Grant Agreement; and

WHEREAS NTA, in consideration of the Association's entering into the Development Credit 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 Development Credit Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth, and the term "NTA Performance Indicators" mean the agreed performance indicators set forth in a letter of even date herewith to be utilized by NTA to measure the progress in the carrying out of Part B of the Project and the degree to which the objectives thereof are being achieved.

ARTICLE II

Execution of Part B of the Project

Section 2.01. (a) NTA declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement, and, to this end, shall carry out Part B of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and telecommunications practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part B of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower, the Association and NTA shall otherwise agree, NTA shall carry out Part B of the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods and consultants' services required for Part B of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. NTA shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 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 Part B of the Project.

Section 2.04. NTA shall duly perform all its obligations under the Grant Agreement. Except as the Borrower and the Association shall otherwise agree, NTA shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Grant Agreement or any provision thereof.

Section 2.05. (a) NTA shall, at the request of the Association, exchange views with the Association with regard to the progress of Part B of the Project, the performance of its obligations under this Agreement and under the Grant Agreement, and other matters relating to the purposes of the Credit.

(b) NTA shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of Part B of the Project, the accomplishment of the purposes of the Credit, or the performance by NTA of its obligations under this Agreement and under the Grant Agreement.

ARTICLE III

Management and Operations of NTA

Section 3.01. NTA shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, regulatory and telecommunications practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. NTA shall at all times operate and maintain its premises, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound administrative, engineering, financial, regulatory and telecommunications practices.

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

ARTICLE IV

Financial Covenants

Section 4.01. (a) NTA shall maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with accounting standards acceptable to the Association, consistently applied, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to Part B of the Project.

(b) NTA 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 auditing standards acceptable to the Association, consistently applied, by independent auditors acceptable to the Association;

- (ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year: (A) certified copies of the financial statements referred to in paragraph (a) of this Section, for such year as so audited; and (B) an opinion on such statements and report of such audit, by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and
- (iii) furnish to the Association such other information concerning such records, accounts and financial statements, and the audit thereof, and concerning said auditors, as the Association may from time to time reasonably request.

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, NTA shall carry out a time-bound action plan acceptable to the Association for the strengthening of the financial management system referred to in paragraph (a) of said Section 4.01 in order to enable NTA not later than April 30, 2003, or such later date as the Association shall agree, to prepare trimesterly Project Management Reports, acceptable to the Association, each of which:

- (i) (A) sets forth actual sources and applications of funds for the Project, both cumulatively and for the period covered by said report, and projected sources and applications of funds for the Project for the eight-month period following the period covered by said report; and (B) shows separately expenditures financed out of the proceeds of the Credit during the period covered by said report and expenditures proposed to be financed out of the proceeds of the Credit during the eight-month period following the period covered by said report;
- (ii) (A) describes physical progress in Project implementation, both cumulatively and for the period covered by said report; and (B) explains variances between the actual and previously forecast implementation targets; and
- (iii) sets forth the status of procurement under the Project and expenditures under contracts financed out of the proceeds of the Credit, as at the end of the period covered by said report.

(b) Upon the completion of the action plan referred to in paragraph (a) of this Section, NTA shall prepare, in accordance with guidelines acceptable to the Association, and furnish to the Association not later than 45 days after the end of each calendar trimester, a Project Management Report for such period.

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 Development Credit Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Association and of NTA thereunder shall terminate on the date on which the Development Credit Agreement shall terminate in accordance with its terms.

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 facsimile 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. Deliveries made by facsimile transmission shall also be confirmed by mail. The addresses so specified are:

For the Association:

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) or 64145 (MCI)	(1-202) 477-6391

For the Nepal Telecommunications Authority:

Nepal Telecommunications Authority
Singha Durbar
Kathmandu
Kingdom of Nepal

Facsimile:

(997-1) 260-400

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 NTA, may be taken or executed by its Chairman or such other person or persons as the Chairman shall designate in writing, and NTA shall furnish to the Association 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 Kathmandu, Kingdom of Nepal, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Kenichi Ohashi

Country Director

NEPAL TELECOMMUNICATIONS AUTHORITY

By /s/ Bhoop Raj Pandey

Authorized Representative

SCHEDULE 1

**Procurement and Consultants' Services
under Part B of the Project**

Section I. Procurement of Goods

Part A: General

1. Goods shall be procured in accordance with the provisions of: (i) Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines); and (ii) the following Parts of this Section I.

2. In paragraphs 1.6 and 1.8 of the Guidelines, the references to "Bank member countries" and "member country" shall be deemed to be references, respectively, to "Participating Countries" and "Participating Country".

Part B: International Competitive Bidding

1. Goods shall be procured under contracts awarded in accordance with the provisions of

Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The following provisions shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(a) Grouping of contracts

To the extent practicable, contracts for goods shall be grouped in bid packages estimated to cost \$100,000 equivalent or more each.

(b) Preference for domestically manufactured goods

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower.

(c) Notification and Advertising

The invitation to bid for each contract shall be advertised in accordance with the procedures applicable to large contracts under paragraph 2.8 of the Guidelines.

Part C: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan under Part B of the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

The procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply to each contract for goods.

Section II. Employment of Consultants

Part A: General

1. Consultants' services shall be procured in accordance with the provisions of: (i) the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Association in January 1997 and revised in September 1997 and January 1999, subject to the modifications thereto set forth in paragraph 2 of this Part A (the Consultant Guidelines); and (ii) the following Parts of this Section II.

2. In paragraph 1.10 of the Consultant Guidelines, the references to "Bank member countries" and "member country" shall be deemed to be references, respectively, to "Participating Countries" and "Participating Country".

Part B: Quality- and Cost-based Selection

1. Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provisions shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph. The short list of consultants for services for the supervision and certification of the Rural Telecommunications Service's operator, the pilot information and communication technology access and the strengthening of the PMU under, respectively, Parts B.2, B.3 and B.4 of the Project, estimated to cost less than \$200,000 equivalent per contract, may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Guidelines.

Part C: Other Procedures for the Selection of Consultants

1. Selection Based on Consultants' Qualifications

(i) Training; and (ii) services under Part B.1 (iii) of the Project, except those for interconnection issues and tariffs reviews, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

2. Individual Consultants

Services for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

Part D: Review by the Association of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under Part B of the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to: (i) training; and (ii) each contract for the employment of consulting firms estimated to cost the equivalent of \$50,000 or more, but less than the equivalent of \$100,000, the procedures set forth in paragraphs 1, 2 (other than the second subparagraph of

paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(c) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$10,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply. Notwithstanding this provision, prior review by the Association shall still apply to: (i) the terms of reference for such contracts; (ii) assignments of a critical nature, as reasonably determined by the Association; (iii) amendments to contracts for the employment of consulting firms subject to the prior review provisions of paragraph 2 (a) of this Part D and raising the contract value to \$100,000 equivalent or above; (iv) amendments to contracts for the employment of consulting firms subject to the prior review provisions of paragraph 2 (b) of this Part D and raising the contract value to \$50,000 equivalent or above; or (v) amendments to contracts for the employment of individual consultants raising the contract value to \$10,000 equivalent or above.

SCHEDULE 2

Implementation Program

1. The PMU

The PMU shall be vested with the responsibility of maintaining records and accounts under Part B of the Project, including the submission of trimesterly Project Management Reports to the PCU not later than April 15, August 15 and December 15 in each Fiscal Year. To this end, NTA shall maintain within its organization the PMU throughout Project implementation under terms of reference and with human and financial resources adequate to enable it to carry out its responsibilities under Part B of the Project in a suitable and prompt manner. The PMU shall be headed by a senior NTA official and supported by a technical specialist, an economist or a lawyer, and other relevant technical and support staff in adequate numbers.

2. Monitoring and Certification of Roll-out Compliance

Promptly upon the award by NTA of the Rural Telecommunications Service (RTS) license, NTA shall certify on a quarterly basis to the Borrower and the Association, the RTS' operator compliance with roll-out obligations as set forth in the license contract.

3. Mid-Term Review

NTA shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the NTA Performance Indicators, the carrying out of Part B of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about September 30, 2004 a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of Part B of the Project during the period preceding the date of said report, the continued validity of the Project design assumptions in light of the implementation experience and the evolving environment, and setting out the measures recommended to ensure the efficient carrying out of Part B of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Borrower and the Association, by November 15, 2004 or such later date as the Association shall request, the report referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of Part B of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

