

CONFORMED COPY

LOAN NUMBER 4103 UA

Loan Agreement

(Agriculture Sector Adjustment Loan)

between

UKRAINE

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated November 14, 1996

LOAN NUMBER 4103 UA

LOAN AGREEMENT

AGREEMENT, dated November 14, 1996, between UKRAINE (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (The Bank):

WHEREAS the Bank has received a letter dated August 30, 1996 from the Borrower describing a program of actions, objectives and policies designed to achieve structural adjustment of the agriculture sector in the economy of the Borrower (hereinafter called the Program), declaring the Borrower's commitment to the execution of the Program, and requesting assistance from the Bank in support of the Program during the execution thereof; and

WHEREAS on the basis, inter alia, of the foregoing, the Bank has decided in support of the Program to provide such assistance to the Borrower by making the Loan in two tranches as hereinafter provided;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements for Single Currency Loans" of the Bank, dated May 30, 1995, (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this

Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

- (a) "Deposit Account" means the account referred to in Section 2.02 (b) of this Agreement;
- (b) "Land Code" means the Borrower's Land Code, dated March 13, 1992, and any amendments thereto;
- (c) "MOAF" means the Borrower's Ministry of Agriculture and Food or any successor thereto; and
- (d) "1994 State Privatization Program" means the Borrower's program for privatization of state-owned enterprises endorsed by the Borrower's Law No. 3876-XII, dated January 26, 1994.

ARTICLE II

The Loan

Section 2.01. (a) The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Loan Agreement, an amount equal to three hundred million Dollars (\$300,000,000).

Section 2.02. (a) Subject to the provisions of paragraphs (b), (c) and (d) of this Section, the Borrower shall be entitled to withdraw the proceeds of the Loan from the Loan Account in support of the Program.

(b) The Borrower shall open, prior to furnishing to the Bank the first request for withdrawal from the Loan Account, and thereafter maintain in its central bank, a deposit account in Dollars on terms and conditions satisfactory to the Bank. All withdrawals from the Loan Account shall be deposited by the Bank into the Deposit Account.

(c) The Borrower undertakes that the proceeds of the Loan shall not be used to finance expenditures excluded pursuant to the provisions of Schedule 1 to this Agreement. If the Bank shall have determined at any time that any proceeds of the Loan shall have been used to make a payment for an expenditure so excluded, the Borrower shall, promptly upon notice from the Bank, (i) deposit into the Deposit Account an amount equal to the amount of said payment, or (ii) if the Bank shall so request, refund such amount to the Bank. Amounts refunded to the Bank upon such request shall be credited to the Loan Account for cancellation.

(d) No withdrawals shall be made from the Loan Account after the aggregate of the proceeds of the Loan withdrawn from the Loan Account shall have reached \$150,000,000 unless the Bank shall be satisfied, after an exchange of views as described in Section 3.01 of this Agreement based on evidence satisfactory to the Bank:

- (i) with the progress achieved by the Borrower in the carrying out of the Program; and
- (ii) that the actions described in Schedule 3 to this Agreement have been taken.

If, after said exchange of views, the Bank shall have given notice to the Borrower that the progress achieved and actions taken are not satisfactory and, within ninety (90) days after such notice, the Borrower shall not have achieved progress and taken actions satisfactory to the Bank, then the Bank may, by notice to the Borrower, cancel the unwithdrawn amount of the Loan or any part thereof.

Section 2.03. The Closing Date shall be December 31, 1997, or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.05. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Interest Period equal to LIBOR Base Rate plus LIBOR Total Spread.

(b) For the purposes of this Section:

- (i) "Interest Period" means the initial period from and including the date of this Agreement to, but excluding, the first Interest Payment Date occurring thereafter, and after the initial period, each period from and including an Interest Payment Date to, but excluding the next following Interest Payment Date.
- (ii) "Interest Payment Date" means any date specified in Section 2.06 of this Agreement.
- (iii) "LIBOR Base Rate" means, for each Interest Period, the London interbank offered rate for six-month deposits in Dollars for value the first day of such Interest Period (or, in the case of the initial Interest Period, for value the Interest Payment Date occurring on or next preceding the first day of such Interest Period), as reasonably determined by the Bank and expressed as a percentage per annum.
- (iv) "LIBOR Total Spread" means, for each Interest Period:
(A) one half of one percent (1/2 of 1%); (B) minus (or plus) the weighted average margin, for such Interest Period, below (or above) the London interbank offered rates, or other reference rates, for six-month deposits, in respect of the Bank's outstanding borrowings or portions thereof allocated by the Bank to fund single currency loans or portions thereof made by it that include the Loan; as reasonably determined by the Bank and expressed as a percentage per annum.

(c) The Bank shall notify the Borrower of LIBOR Base Rate and LIBOR Total Spread for each Interest Period, promptly upon the determination thereof.

(d) Whenever, in light of changes in market practice affecting the determination of the interest rates referred to in this Section 2.05, the Bank determines that it is in the interest of its borrowers as a whole and of the Bank to apply a basis for determining the interest rates applicable to the Loan other than as provided in said Section, the Bank may modify the basis for determining the interest rates applicable to the Loan upon not less than six (6) months' notice to the Borrower of the new basis. The basis shall become effective on the expiry of the notice period unless the Borrower notifies the Bank during said period of its objection thereto, in which case said modification shall not apply to the Loan.

Section 2.06. Interest and other charges shall be payable on May 15 and November 15 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 2 to this Agreement.

ARTICLE III

Particular Covenants

Section 3.01. (a) The Borrower and the Bank shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program and the actions specified in Schedule 3 to this Agreement.

(b) Prior to each such exchange of views, the Borrower shall furnish to the Bank for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Bank shall

reasonably request.

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Borrower shall exchange views with the Bank on any proposed action to be taken after the disbursement of the Loan which would have the effect of materially reversing the objectives of the Program, or any action taken under the Program, including any action specified in Schedule 3 to this Agreement.

Section 3.02. Upon the Bank's request, the Borrower shall:

(a) have the Deposit Account audited in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(b) furnish to the Bank as soon as available, but in any case not later than six (6) months after the date of the Bank's request for such audit, a certified copy of the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and

(c) furnish to the Bank such other information concerning the Deposit Account and the audit thereof as the Bank shall have reasonably requested.

ARTICLE IV

Additional Event of Suspension

Section 4.01. Pursuant to Section 6.02 (1) of the General Conditions, the following additional event is specified, namely, that a situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out.

ARTICLE V

Effective Date

Section 5.01. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance
12/2 Hrushevsky St.
Kyiv, Ukraine 252008

Telex:

131450

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 (MCI)
Washington, D.C. 64145 (MCI)

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.

UKRAINE

By /s/ Yuri Shcherbak

Authorized Representative

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

By /s/ Basil Kavalsky

Acting Regional Vice President
Europe and Central Asia

SCHEDULE 1

Excluded Expenditures

For purposes of Section 2.02 (c) of this Agreement, the proceeds of the Loan shall not be used to finance any of the following expenditures:

1. expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower;
2. expenditures for goods or services supplied under a contract which any national or international financing institution or agency other than the Bank or the Association shall have financed or agreed to finance, or which the Bank or the Association shall have financed or agreed to finance under another loan or a credit;
3. expenditures for goods included in the following groups or subgroups 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 Bank by notice to the Borrower:

Group	Subgroup	Description of Items
112	-	Alcoholic beverages
121	-	Tobacco, unmanufactured, 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)

4. expenditures for goods intended for a military or paramilitary purpose or for luxury consumption; and

5. expenditures for environmentally hazardous goods (for purposes of this paragraph the term "environmentally hazardous goods" means goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party).

SCHEDULE 2

Amortization Schedule

Date Payment Due	Payment of Principal (expressed in Dollars)*
On each May 15 and November 15 beginning May 15, 2002 through May 15, 2013	12,500,000
On November 15, 2013	12,500,000

* The figures in this column represent the amount in Dollars to be repaid, except as provided in Section 4.04(d) of the General Conditions.

SCHEDULE 3

Actions Referred to in Section 2.02 (d) of this Agreement

1. Continued maintenance of a macroeconomic framework consistent with the objectives of the Program as determined on the basis of performance criteria acceptable to the Borrower and the Bank.

2. Elimination of all export duties and indicative prices on all agricultural exports, with the exception of those covered by voluntary export restraints, anti-dumping investigations, and those permitted under the World Trade Organization Agreement.

3. Enactment of amendments to the Land Code that would: (i) abolish the existing 6-year moratorium on sale of land; and (ii) limit to three (3) months the time within which co-owners can exercise their preferential right to buy the share of land being sold by a co-owner.

4. Enactment of legislation or other normative acts that would: (a) give a right to 2 or more members of a collective agricultural enterprise, joint stock agricultural company or agricultural cooperative (together, collective agricultural enterprises or CAEs) to withdraw adjacent land plots from the said enterprise; (b) limit to three (3) months the time period within which farm members' council of a CAE (or its authorized representatives) has to give its consent to the plots of land requested by one or more members who filed an application for withdrawal of the said plot(s) of land; and (c) give withdrawing members of a CAE the right to: (i) appeal to designated authority in the event the farm members' council of the CAE fails to give its consent within the three (3) months specified in sub-paragraph (b), above, and (ii) receive ownership of his/her plot of land within 12 months of receiving the consent in accordance with procedures referred to in sub-paragraph (b) or sub-paragraph (c)(i) of this paragraph 4.

5. The Borrower has implemented an action plan, satisfactory to the Bank, for carrying out a public information campaign in each oblast relating to: (i) the legal rights of members of CAEs to exit the said CAEs and exchange their shares in the said CAEs for land plots; and (ii) the procedures for exercising the said rights.

6. Enactment of legislation establishing a national unified registry for all immovable property, including rural and urban land and other real estate, including buildings.

7. Submission of evidence, satisfactory to the Bank, that the Borrower has: (i) completed the registration process for land share certificates in 2,000 CAEs and issued the said land share certificates to at least 75% of entitled beneficiaries in such CAEs; and (ii) completed the process of exchanging land share certificates for physically identified land plots of at least 75 CAEs.

8. Submission of evidence, satisfactory to the Bank, that demonstrates that starting in November 1996, all state agricultural procurement by state agencies has been carried out on a competitive basis through open tenders and/or agricultural commodity exchanges in a manner facilitating private sector participation.

9. The Borrower has implemented a methodology for privatization of agro-industrial enterprises, which: (i) has shortened the periods for the corporatization and share subscription processes to a period approximating the corresponding periods achieved for analogous enterprises in other sectors, and (ii) ensures that shares in these agro-industrial enterprises that are subject to transfer on preferential terms to primary producers of agricultural raw materials, shall be transferred to physical persons and not to any collective structures.

10. Submission of evidence, satisfactory to the Bank, showing that as part of the 1994 State Privatization Program, the Borrower has offered for privatization, in accordance with procedures satisfactory to the Bank, at least seventy percent (70%) of the equity in at least 1,000 medium and large-scale agro-industrial enterprises (defined as enterprise groups B, C and D in the 1994 State Privatization Program), not including state farms.

11. The Borrower has implemented demonopolization plans, satisfactory to the Bank, for 100 agro-industrial regional or national monopoly enterprises or enterprise associations, including at least five (5) state-owned national monopoly enterprises or enterprise associations engaged in the processing of agricultural products and in material technical input supply. For the purposes of this paragraph, regional

or national monopoly enterprise or enterprise association is defined as an enterprise or enterprise association that controls at least 30% of the relevant market.

