

CONFORMED COPY

TF027807

Trust Fund Grant Agreement

(Third Economic Assistance Grant)

between

UNITED NATIONS INTERIM
ADMINISTRATION IN KOSOVO

and

INTERNATIONAL DEVELOPMENT ASSOCIATION
(Acting as Administrator of the Trust Fund for Kosovo)

Dated July 26, 2001

TF027807

TRUST FUND GRANT AGREEMENT

AGREEMENT, dated as of July 26, 2001, between UNITED NATIONS INTERIM ADMINISTRATION IN KOSOVO (the Recipient) and the INTERNATIONAL DEVELOPMENT ASSOCIATION (the Administrator).

WHEREAS (A) the Board of Governors of the International Bank for Reconstruction and Development, acting on the recommendation of its Board of Executive Directors, decided on September 30, 1999, to transfer from Bank surplus, by way of grant, \$25,000,000 to a trust fund (the Trust Fund) for Kosovo, Federal Republic of Yugoslavia (Serbia and Montenegro) (Kosovo), established by Resolutions of the Executive Directors of the Bank (Resolution No. 99-7) and the Association (Resolution No. IDA 99-4) and to be administered by the Administrator, to be used for financing an emergency reconstruction program in Kosovo;

(B) the Board of Governors of the Bank further decided on September 27, 2000, to transfer from Bank surplus, an additional amount of \$35,000,000 (Additional Contribution) to the Trust Fund;

(C) the Administrator has received a letter dated February 15, 2001, from the Recipient, describing a program of actions, objectives and policies designed to achieve structural adjustment of the economy of Kosovo (hereinafter called the Program), declaring the commitment of the Recipient to the execution of the Program, for the benefit of Kosovo, and requesting assistance from the Administrator in support of the Program during the execution thereof;

(D) the Recipient has carried out the measures and taken the actions

described in Schedule 2 to this Agreement to the satisfaction of the Administrator;
and

(E) on the basis, *inter alia*, of the foregoing, the Administrator has decided in support of the Program to provide such assistance to the Recipient, for the benefit of Kosovo, by making the Grant as hereinafter provided;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions

Section 1.01. The General Conditions set forth in Schedule 3 to this Agreement (the General Conditions) constitute an integral part of this Agreement.

ARTICLE II

The Grant

Section 2.01. The Administrator agrees to make available, on the terms and conditions set forth or referred to in this Agreement, to the Recipient a grant in an amount equal to five million Dollars (US\$5,000,000).

Section 2.02. (a) The Recipient shall, prior to furnishing to the Administrator the first request for withdrawal from the Grant Account, open and thereafter maintain in a commercial bank a deposit account in Dollars on terms and conditions satisfactory to the Administrator. All withdrawals from the Grant Account shall be deposited by the Administrator into the Deposit Account.

(b) Subject to the provisions of paragraphs (c) and (d) of this Section, the Recipient shall be entitled to use the proceeds of the Grant withdrawn from the Grant Account and deposited in the Deposit Account in support of the Program.

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

(d) No withdrawals shall be made from the Grant Account unless the Administrator shall be satisfied, after an exchange of views as described in Section 3.01 of this Agreement based on evidence satisfactory to the Administrator with the progress achieved by the Recipient in the carrying out of the Program.

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

Section 2.03. The Closing Date shall be December 31, 2001, or such later date as the Administrator shall establish. The Administrator shall promptly notify the Recipient of such later date.

ARTICLE III

Particular Covenants

Section 3.01. (a) The Recipient and the Administrator shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program.

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

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Recipient shall exchange views with the Administrator on any proposed action to be taken after the disbursement of the Grant 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 2 to this Agreement.

Section 3.02. Upon the Administrator's request, the Recipient shall:

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

(b) furnish to the Administrator as soon as available, but in any case not later than six (6) months after the date of the Administrator'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 Administrator shall have reasonably requested; and

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

ARTICLE IV

Effectiveness

Section 4.01. This Agreement will become effective upon signature by the parties hereto.

ARTICLE V

Representative of the Recipient; Addresses

Section 5.01. The Special Representative of the Secretary-General of the United Nations for Kosovo is designated as the representative of the Recipient for the purposes of Section 1.23 of the General Conditions.

Section 5.02. The following addresses are specified for the purposes of Section 1.21 of the General Conditions:

For the Recipient:

UNMIK Pristina
c/o UN Liaison Office in Skopje
M.H. Jasmin BB
ZGRABA NA NIP NOVA
Macedonia
9100 Skopje
Former Yugoslav Republic of Macedonia

Facsimile:

21 963-8113
21 963-8603

For the Association:

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

Cable address:

Telex:

Facsimile:

INDEVAS 248423 (MCI) or (202) 477-6391
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 as of the day and year first above written.

ADMINISTRATION IN KOSOVO

By /s/ Hans Haekkerup

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Christiaan Poortman

Authorized Representative

SCHEDULE 1

Excluded Expenditures

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

1. expenditures in the currency of Kosovo or for goods or services supplied from the territory of Kosovo; provided, however, that if the currency of Kosovo is also that of another country from the territory of which goods or services are supplied, expenditures in such currency for such goods or services shall not be excluded;
2. expenditures for goods or services supplied under a contract which any national or international financing institution or agency other than the Administrator, Bank or the Association shall have financed or agreed to finance, or which the Administrator, Bank or the Association shall have financed or agreed to finance under another grant, loan or 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 Administrator by notice to the Recipient:

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 semi-precious 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;

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 Recipient or international agreements to which the Recipient is a party);

6. expenditures: (a) in the territories of any country which is not a member of the Bank or for goods procured in, or services supplied from, such territories; or (b) on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and

7. expenditures under a contract in respect of which the Administrator determines that corrupt or fraudulent practices were engaged in by representatives of the Recipient or of a beneficiary of the Grant during the procurement or execution of such contract, without the Recipient having taken timely and appropriate action satisfactory to the Administrator to remedy the situation.

SCHEDULE 2

Actions Referred to in Recital (D) of the Preamble to this Agreement

The Recipient has enacted the following four Regulations in form and substance satisfactory to the Administrator:

- (i) the Regulation on business organizations;
- (ii) the regulation on Contract for Sale of Goods;
- (iii) the Regulation on Pledges; and
- (iv) the Regulation on Foreign Investment.

SCHEDULE 3

General Conditions

Section 1.01. Application of General Conditions

Without limitation or restriction upon the scope of any other provisions of this Agreement, these General Conditions set forth certain basic terms and conditions applicable to this Agreement.

Section 1.02. Definitions

The following terms have the following meanings wherever used in these General Conditions:

(a) "Administrator" means the International Development Association acting as administrator of the Trust Fund;

(b) "Association" means the International Development Association;

(c) "Bank" means the International Bank for Reconstruction and Development;

(d) "Closing Date" means the date specified in Section 2.03 of this Agreement after which the Administrator may, by notice to the Recipient, terminate the right of the Recipient to withdraw from the Grant Account;

(e) "Currency" of a country means the coin or currency which is legal tender for the payment of public and private debts in that country;

(f) "Deposit Account" means the account referred to in Section 2.02 (a) of this Agreement;

(g) "Dollars" and the sign "\$" mean dollars in the currency of the United States of America;

(h) "Grant" means the Grant provided for in this Agreement;

(i) "Grant Account" means the account opened by the Administrator on its books in the name of the Recipient to which the amount of the Grant is credited;

(j) "Program" means the program referred to in the Preamble to this Agreement;

(k) "Recipient" means UNMIK for the benefit of Kosovo;

(l) "Taxes" includes imposts, levies, fees and duties of any nature, whether in effect at the date of the Trust Fund Grant Agreement or thereafter imposed; and

(m) "UNMIK" means the United Nations Interim Administration in Kosovo established pursuant to United Nations Security Council Resolution No. 1244 (1999) of June 10, 1999.

Section 1.03. Grant Account

The amount of the Grant shall be credited to the Grant Account and may be withdrawn therefrom by the Recipient as provided in this Agreement and in these General Conditions.

Section 1.04. Currency of Withdrawals

Except as the Recipient and the Administrator shall otherwise agree, withdrawals from the Grant Account shall be made in the currency of the Deposit Account specified in Section 2.02 (a) of this Agreement.

Section 1.05. Valuation of Currencies.

Whenever it shall be necessary for the purposes of this Agreement to determine the value of one currency in terms of another, such value shall be as reasonably determined by the Administrator.

Section 1.06. Withdrawal from the Grant Account

The Recipient shall be entitled to withdraw from the Grant Account in accordance with the provisions of this Agreement and of these General Conditions.

Section 1.07. Special Commitments by the Administrator

Upon the Recipient's request and upon such terms and conditions as shall be agreed upon between the Recipient and the Administrator, the Administrator may enter into special commitments in writing to pay amounts to the Recipient or others in respect of expenditures to be financed out of the proceeds of the Grant notwithstanding any subsequent cancellation by the Administrator or the Recipient.

Section 1.08. Evidence of Authority to Sign Applications for Withdrawal

The Recipient shall furnish to the Administrator evidence of the authority of the person or persons authorized to sign applications for withdrawal and the authenticated specimen signature of any such person.

Section 1.09. Supporting Evidence

The Recipient shall furnish to the Administrator such documents and other evidence in support of the application as the Administrator shall reasonably request, whether before or after the Administrator shall have permitted any withdrawal requested in the application.

Section 1.10. Sufficiency of Applications and Documents

Each application and the accompanying documents and other evidence must be sufficient in form and substance to satisfy the Administrator that the Recipient is entitled to withdraw from the Grant Account the amount applied for and that the amount to be withdrawn from the Grant Account is to be used only for the purposes specified in this Agreement.

Section 1.11. Treatment of Taxes

It is the policy of the Administrator that no proceeds of the Grant shall be withdrawn on account of payments for any taxes levied by, or in the territory of, the Recipient on goods or services, or on the importation, manufacture, procurement or supply thereof.

Section 1.12. Payment by the Administrator

The Administrator shall pay the amounts withdrawn by the Recipient from the Grant Account only to or on the order of the Recipient.

Section 1.13. Cancellation by the Recipient

The Recipient may, by notice to the Administrator, cancel any amount of the Grant which the Recipient shall not have withdrawn.

Section 1.14. Cancellation by the Administrator

If, at any time, the Administrator determines, after consultation with the Recipient, that an amount of the Grant will not be required to finance the Program's costs to be financed out of the proceeds of the Grant, or the Administrator may, by notice to the Recipient, terminate the right of the Recipient to make withdrawals with respect to such amount. Upon the giving of such notice, such amount of the Grant shall be canceled.

Section 1.15. Effectiveness of Provisions after Cancellation

Notwithstanding any cancellation, all the provisions of this Agreement shall continue in full force and effect except as specifically provided in this Agreement.

Section 1.16. Taxes

This Agreement, and any other agreement to which these General Conditions apply, shall be free from any taxes levied by the Recipient or in the territory of Kosovo on or in connection with the execution, delivery or registration thereof.

Section 1.17. Cooperation and Information

(a) The Recipient and the Administrator shall cooperate fully to assure that the purposes of the Grant will be accomplished. To that end, the Recipient and the Administrator shall:

(i) from time to time, at the request of any one of them, exchange views with regard to the progress of the Program, the purposes of the Grant, and the performance of their respective obligations under this Agreement; and furnish to the other party all such information related thereto as it shall reasonably request; and

(ii) promptly inform each other of any condition which interferes with, or threatens to interfere with, the matters referred to in paragraph (i) above.

(b) The Recipient shall afford all reasonable opportunity for representatives of the Administrator to visit any site for purposes related to the Grant.

Section 1.18. Insurance

The Recipient shall insure or cause to be insured, or make adequate provision for the insurance of, the imported goods to be financed out of the proceeds of the Grant against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation. Any indemnity for such insurance shall be payable in a freely usable currency to replace or repair such goods.

Section 1.19. Use of Goods and Services

Except as the Administrator shall otherwise agree, the Recipient shall cause all goods and services financed out of the proceeds of the Grant to be used exclusively for the purposes of the Program.

Section 1.20. Records and Reports

(a) The Recipient shall: (i) maintain records and procedures adequate to

record and monitor the progress of the Program (including its cost and the benefits to be derived from it), to identify the goods and services financed out of the proceeds of the Grant, and to disclose their use in the Program; (ii) within its capacity, enable the Administrator's representatives to visit any facilities and construction sites included in the Program and to examine the goods financed out of the proceeds of the Grant and any plants, installations, sites, works, buildings, property, equipment, records and documents relevant to the performance of the obligations of the Recipient under this Agreement; and (iii) furnish to the Administrator at regular intervals all such information as the Administrator shall reasonably request concerning the Program, its cost and, where appropriate, the benefits to be derived from it, the expenditure of the proceeds of the Grant and the goods and services financed out of such proceeds.

(b) Upon the award of any contract for goods or services to be financed out of the proceeds of the Grant, the Administrator may publish a description thereof, the name and nationality of the party to which the contract was awarded and the contract price.

(c) Not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Recipient and the Administrator, the Recipient shall prepare and furnish to the Administrator a report, of such scope and in such detail as the Administrator shall reasonably request, on the execution of the Program, the performance by the Recipient and the Administrator of their respective obligations under this Agreement and the accomplishment of the purposes of the Grant.

Section 1.21. Notices and Requests

Any notice or request required or permitted to be given or made under this Agreement and any other 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 which it is required or permitted to be given or made at such party's address specified in this Agreement, 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.

Section 1.22. Evidence of Authority

The Recipient shall furnish to the Administrator sufficient evidence of the authority of the person or persons who will, on behalf of the Recipient, take any action or execute any documents required or permitted to be taken or executed by the Recipient under this Agreement, and the authenticated specimen signature of each such person.

Section 1.23. Action on Behalf of the Recipient

Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Agreement on behalf of the Recipient may be taken or executed by the representative of the Recipient designated in this Agreement for the purposes of this Section or any person thereunto authorized in writing by such representative. Any modification or amplification of the provisions of this Agreement may be agreed to on behalf of the Recipient by written instrument executed on behalf of the Recipient by the representative so designated or any person thereunto authorized in writing by such representative, provided that, in the opinion of such representative, such modification or amplification is reasonable in the circumstances and will not substantially increase the obligations of the Recipient under this Agreement. The Administrator may accept the execution by such representative or other person of any such instrument as conclusive evidence that in the opinion of such representative any modification or amplification of the provisions of this Agreement effected by such instrument is reasonable in the circumstances and will not substantially increase the obligations of the Recipient thereunder.

Section 1.24. Settlement of Disputes

Any dispute arising out of, or relating to, this Agreement which is not settled by agreement of the parties shall be finally settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

Section 1.25. Execution in Counterparts

This Agreement may be executed in several counterparts, each of which shall be an original.

