

CONFORMED COPY

CREDIT NUMBER 3622 GUB

Development Credit Agreement

(Private Sector Rehabilitation and Development Project)

between

REPUBLIC OF GUINEA-BISSAU

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated May 17, 2002

CREDIT NUMBER 3622 GUB

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated May 17, 2002, between REPUBLIC OF GUINEA-BISSAU (the

Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received the Private Sector Policy Statement from the Borrower dated February 25, 2002, describing the principles and the objectives of the Private Sector Development program and strategy of the Borrower (hereinafter called the Program), and declaring the Borrower's commitment to the execution of the Program;

(B) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project; and

WHEREAS the Association has agreed, on the basis, *inter alia*, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985 (as amended through October 6, 1999), with the modifications set forth below (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) "BIGB" or "*Banco Internacional da Guiné-Bissau*" means the Borrower's International Bank referred to in Schedule 2, Part 2 (b) to this Agreement;

(b) "Beneficiary" means a private enterprise legally established and operating in the territory of the Borrower, which meets the criteria agreed between the Borrower and the Association, and described in the PIM (as hereinafter defined);

(c) "FCFA" and "*Franc de la Communauté Financière Africaine*" means the currency of the Borrower;

(d) "Equity Financing Facility" or "EFF" means the funding mechanism through which the Borrower shall provide EFF Grants (as hereinafter defined) for Beneficiaries for the purposes of Part A.3 of the Project;

(e) "EFF Grant" means a grant made or proposed to be made by the Borrower to a

Beneficiary for the purposes of Part A.3 of the Project;

(f) “EFF Grant Agreement” means a grant agreement to be entered into between the Borrower and a Beneficiary for the purposes of Part A.3 of the Project;

(g) “Environmental Impact Assessment” or “EIA” means the environmental impact assessment, acceptable to the Bank, to be prepared and submitted to the Association by the Borrower, in accordance with the EIA Framework agreed with the Association, for each eligible Beneficiary, pursuant to paragraph 3 (a) of Schedule 1 to this Agreement, consisting of, *inter alia* : (i) a description of the site where construction activities are to be carried out under Part A.3 of the Project and the justification for said activities; (ii) the actual or potential environmental impact of the construction activities referred to under sub-paragraph (i) above; and (iii) a management plan setting forth adequate mitigating measures and systems required to monitor the implementation of the construction activities referred to under sub-paragraph (i) above and to ensure compliance of such activities with said measures with a view to limiting any actual and potential adverse environmental impact;

(h) “Financial Management Report” or “FMR” means each report prepared in accordance with Section 4.02 of this Agreement;

(i) “MEF” means the Borrower’s Ministry of Economy and Finance;

(j) “OHADA” means the *Organisation pour l’Harmonisation en Afrique du Droit des Affaires* established by the treaty signed on October 17, 1993 in Port-Louis (Mauritius);

(k) “Project Preparation Advance” means the project preparation advances granted by the Association to the Borrower pursuant to the seven letters of agreement signed on behalf of the Association and the Borrower on (i) January 20, 1997, (ii) May 6, 1997, (iii) January 7, 1998, (iv) January 8, 1998, (v) July 27, 2000, (vi) January 20, 2001, and (vii) March 1, 2002;

(l) “PIM” means the Borrower’s Project Implementation Manual referred to in Schedule 4 to this Agreement, containing detailed arrangements regarding the implementation of the different activities under the Project, including, *inter alia*, the institutional responsibilities, reporting structure, review and monitoring, procurement, disbursement, financial management and, *inter alia*, criteria, procedures and guidelines for the EFF Grants, for the purposes of the implementation of the Project;

(m) “PIU” means the Project Implementation Unit, established and operating pursuant to the laws of the Borrower;

(n) “Separation Program” means the program referred to in Schedule 1 Part 2 (d) to this Agreement and as described in the Borrower’s Private Sector Policy Statement;

(o) “Special Accounts” means the accounts referred to in to in Section 2.02 (b) of

this Agreement; and

(p) "Steering Committee" means the Steering Committee referred to in Part 4 of Schedule 4 to this Agreement.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to twenty-one million Special Drawing Rights (SDR 21,000,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for: (i) expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable costs of goods, works and services required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Credit; and (ii) amounts paid (or if the Association shall so agree, amounts to be paid) by the Borrower on account of withdrawals made for the Beneficiaries under an EFF Grant, to meet the costs of goods, works and services required for such EFF Grant, and in respect of which withdrawal from the Credit Account is requested;

(b) The Borrower may, for the purposes of the Project, open and maintain in FCFA two special deposit accounts in a commercial bank acceptable to the Association (Special Account A for Parts A, B and C, excluding Part A.3 of the Project, and Special Account B for Part A.3 of the Project), on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure and attachment. Deposits into, and payments out of, each respective Special Account shall be made in accordance with the provisions of Schedule 5 to this Agreement; and

(c) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advances withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advances shall thereupon be canceled.

Section 2.03. The Closing Date shall be March 31, 2008 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or canceled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent ($3/4$ of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on June 15 and December 15 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each June 15 and December 15 commencing June 15, 2012 and ending December 15, 2041. Each installment to and including the installment payable on December 15, 2021 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the repayment of installments under paragraph (a) above by:

- (A) requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid; and
- (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(d) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate financial, technical, administrative, engineering and environmental practices, and shall provide promptly as needed, the funds, facilities, services and other resources required for the Project; and

(b) without limitation upon the provisions of paragraph (a) of this Section and, except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement as well as the mitigating measures set forth in the EIA to be prepared by the Borrower.

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods, works and services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan designed to ensure the sustainability of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with the

Borrower on said plan.

Section 3.04. Without limitation to its obligations under Section 3.01 of this Agreement, the Borrower shall:

(a) open and thereafter maintain, until the completion of the Project, a project account for Parts A.1, A.2, B and C of the Project (the Project Account A), and a project account for Part A.3 of the Project (the Project Account B), in FCFA and in a commercial bank acceptable to the Association;

(b) thereafter deposit into the Project Account A, by the first day of each quarter each year during Project implementation, such amounts as shall be required and agreed upon with the Association to timely replenish Project Account A;

(c) thereafter deposit into the Project Account B, such amounts received from the Beneficiaries for the purposes of Part A.3 of the Project, as shall be required and agreed upon with the Association to timely replenish Project Account B and in accordance with Schedule 4 to this Agreement; and

(d) use the funds in the Project Accounts exclusively to finance expenditures under the Project.

Section 3.05. Without limitation to its obligations under Sections 3.01 and 3.04 of this Agreement, the Borrower shall open and maintain a dedicated account in US Dollars to deposit the Association's share from the proceeds of the Credit to be used for the severance payments under Category 6 of Schedule 1 to this Agreement.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain a financial management system, including records and accounts, and prepare financial statements in a format acceptable to the Association, adequate to reflect the operations, resources and expenditures related to the Project.

(b) The Borrower shall:

(i) have the records, accounts and financial statements referred to in paragraph (a) of this Section and the records and accounts for the Special Accounts 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, records and accounts 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 and accounts, and the audit thereof, and concerning said auditors, as the Association may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and separate accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Association's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, the Borrower shall prepare and furnish to the Association a Financial Monitoring Report, in form and substance satisfactory to the Association, which:

- (i) sets forth actual and projected sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Credit, and explains variances between the projected and actual sources and uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the previously forecast and actual implementation targets; and

- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Association not later than 45 days after the end of the calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each FMR shall be furnished to the Association not later than 45 days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Remedies of the Association

Section 5.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional event is specified, namely, that the Private Sector Policy Statement shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the implementation of the Project.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) the auditors referred to in Section 4.01 (b) (i) of this Agreement have been appointed in accordance with the provisions of Section II of Schedule 3 to this Agreement;

(b) the Borrower has adopted the PIM, in form and substance satisfactory to the Association;

(c) the Borrower has established the Steering Committee in accordance with the provisions of Part 4 of Schedule 4 to this Agreement;

(d) the Borrower has established a financial management system, in form and substance acceptable to the Association, including the development of a financial procedures manual and the appointment of financial management staff for the Project Implementation Unit with experience acceptable to the Association and in accordance with the provisions of Section II of Schedule 3 to this Agreement; and

(e) the Borrower has provided satisfactory evidence to the Association that FMRs

can be produced.

Section 6.02 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 VII

Representative of the Borrower; Addresses

Section 7.01. The Minister of Economy and Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministério da Economia e das Finanças
C. P. 67
Bissau
Guiné-Bissau

Cable address: Facsimile:

MEF 245-201626

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 in Bissau, Republic of Guinea-Bissau, as of the day and year first above written.

REPUBLIC OF GUINEA-BISSAU

By

/s/ Rui Duarte Barros
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

/s/ John McIntire
Acting Regional Vice President
Africa

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit, the allocation of the amounts of the Credit to each Category and the percentage of expenditures for items so to be financed in each Category:

<u>Category</u>	<u>Amount of the Credit Allocated (to be Expressed in SDR Equivalent)</u>	<u>% of Expenditures To be Financed</u>
(1) Goods	1,400,000	100% of foreign expenditures and 85% of local expenditures
(2) Works	400,000	100% of foreign expenditures and 85% of local expenditures
(3) Consultants' Services and audits	6,700,000	100%
(4) Training and Workshops	2,200,000	100%
(5) EFF Grants under Part A.3 of the Project	1,600,000	100% of amounts disbursed

(6) Severance payments	2,300,000	100% of expenditures incurred
(7) Operating Costs	2,100,000	100% of foreign expenditures and 85% of local expenditures
(8) Refinancing of the Project Preparation Advances	3,200,000	Amount due pursuant to Section 2.02 (c) of this Agreement
(9) Unallocated	1,100,000	
	—————	
TOTAL	21,000,000 =====	

2. For the purposes of this Schedule:

(a) the term “foreign expenditures” means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower;

(b) the term “local expenditures” means expenditures in the currency of the Borrower or goods or services supplied from the territory of the Borrower; provided, however, that if the currency of the Borrower is also that of another country from the territory of which goods and services are supplied, expenditures in such currency for such goods and services shall be deemed to be “foreign expenditures”;

(c) the term “Operating Costs” means the incremental expenses incurred by the Borrower on account of the Project implementation including maintenance of information systems, office supplies, maintenance and operation of vehicles, but excluding salaries of officials of the Borrower; and

(d) the term “severance payments” means payments made by the Borrower’s public enterprises selected for privatization to their employees separated pursuant to the Borrower’s separation program described in the Borrower’s Private Sector Policy Statement.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement for:

(a) payments made for expenditures under Category (5) of the table in paragraph A.1 of this Schedule unless: (i) the Borrower has appointed a manager acceptable to the Association for the EFF administration unit of the PIU, (ii) for each new construction site for a Beneficiary under Part A.3 of the Project, respectively, unless the Borrower shall have submitted to the Association an EIA, in form and substance satisfactory to the Association, (iii) the

respective Beneficiary and MEF have entered into an EFF Grant Agreement in form and substance satisfactory to the Association, (iv) the respective EFF Grant has been made in accordance with the criteria, procedures and terms and conditions set forth or referred to in the PIM and in Schedule 4 to this Agreement; and (v) the respective Beneficiary has deposited into the Project Account B, such amounts for the purposes of Part A.3 of the Project, as shall be required and agreed upon with the Association to timely replenish Project Account B and in accordance with Schedule 4 to this Agreement; and

(b) payments under Category (6) for the purposes of Part A (2) (a), (b) and (d) of the Project unless: (i) the Borrower has adopted, and does not amend in a way that may materially and adversely affect it, the Separation Program retrenchment plan in form and substance acceptable to the Association; and (ii) evidence that BIGB's shareholders have legally approved its liquidation in form and substance acceptable to the Association.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures under: (a) contracts for goods costing less than \$100,000 equivalent each; (b) contracts for consulting firms costing less than \$100,000 equivalent each; (c) contracts for individual consultants costing less than \$100,000 equivalent each; (d) works costing less than \$100,000 equivalent each; (e) severance payments; (f) EFF Grants; and (g) operating costs, training and workshops as the Association shall determine, all under such terms and conditions as the Association shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Borrower in implementing its divesture program, reforming its infrastructure and commercial banking sectors, outsourcing the Borrower's public services, stimulating private investment, undertaking legal reform, improving the fiscal and regulatory business environment, and strengthening supply chains and private sector capacity.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

Part A: Partnerships and Private Participation

1. Infrastructure Reform

(a) Telecommunications

Development of competition in the telecommunications sector, including the award of two cellular operating licenses, the phasing out of the international exclusivity regime and the complete liberalization of value added services (including Internet services), for: (i) the strengthening of the regulatory framework and the adoption of decrees related to interconnection, tariff regulation, rebalancing and universal service, and (ii) the strengthening of the

telecommunications department of the multi-sector regulatory agency, all through the provision of technical advisory services, training, and acquisition of goods.

(b) Civil Aviation

Revision of the Civil Aviation Code, strengthening of the Civil Aviation Authority and repair of radar, communication and safety equipment through the provision of technical advisory services, training, works and acquisition of equipment.

(c) Water and Energy

Maintenance and rehabilitation of the power generator and continued operation of the Water and Energy Unit of the PIU, through the provision of technical advisory services and goods.

(d) Port

Carrying out of a master plan study for the operation of the Bissau port and the creation of a monitoring system to improve performance of customs and port operations through the provision of technical advisory services, training and acquisition of equipment for the customs office.

(e) Regulatory Agency

Design and operation, including the elaboration of a business plan, training, monitoring and management equipment, for the Borrower's multi-sector regulatory agency for the Borrower's infrastructure and utility sectors through the provision of technical advisory services, training and acquisition of goods.

2. Divesture and Outsourcing

(a) Divesture

Carrying out the Borrower's divesture program for selected public enterprises including restructuring, privatization, sale and liquidation of selected public enterprises, through the provision of technical advisory services and severance payments for redundant staff of the selected enterprises.

(b) Liquidation of BIGB

Liquidation of BIGB through the provision of severance payments for BIGB staff and related technical advisory services, including for asset recovery and liquidation.

(c) Contracting-out Public Services

Reduction of the scope of the Borrower's civil service by (i) assisting in retrenchment of selected redundant staff, (ii) the design of contracts with mechanisms to secure government payment of such services, and (iii) the implementation of transparent system for awarding those contracts, through the provision of technical advisory services.

(d) Retrenchment Program

Implementation of a program designed to facilitate the retrenchment of redundant staff of the Borrower's public enterprises selected for privatization, the design of policy to encourage workers to take over some assets through debt equity swaps and the support to the emerging small companies through the provision of technical advisory services, training and severance payments.

3. Equity Financing Facility

The provision of grants to Beneficiaries for the rehabilitation and investment in their respective capital and assets, including training.

Part B: Investment Environment

1. Legal Reform

Strengthening and modernizing the Borrower's legal and judicial system with a view to improving its respective security, predictability, response and enforceability for private sector investments and contractual transactions, through:

(a) harmonization of the Borrower's business laws with OHADA, including the review of existing, and drafting of, new or amendments of laws and regulations, necessary to support private sector investment in the territory of the Borrower and increase private enterprise competitiveness, through the provision of technical advisory services;

(b) development of a modern, reliable, comprehensive and accessible legal information system, including the translation of OHADA laws, the creation of a computerized database, their publication and posting on web sites; and the strengthening of the Borrower's official gazette; through the acquisition of office equipment and supplies, small rehabilitations of office space, training and technical advisory services;

(c) strengthening systems for enterprise registration including the official commercial notary and commercial registrar, through the provision of technical advisory services, small rehabilitations of office space and acquisition of office equipment and supplies;

(d) development of a modern code of conduct for judges, performance standards and evaluation systems for the strengthening of the court system, and modern case management

techniques (such as alternative dispute resolution or arbitration); through the provision of technical advisory services and training;

(e) strengthening the training of judges and court personnel through training programs and facilities in such areas as general administration, substantive and procedural law (including economic law), case management, judgement writing, computer use, judicial ethics and performance standards; through the provision of technical advisory services; and

(f) carrying out legal education and training programs for legal professionals, law teachers and students on (i) the Borrower's business laws and regulations harmonized with OHADA; and (ii) new or amendments of the Borrower's laws and regulations necessary to support private sector investment, through the provision of technical advisory services and training.

2. Business Environment

(a) Carrying out a detailed study of the Borrower's tax system and a baseline survey of the cost of doing business in its territory, including an institutional assessment of investment promotion arrangements and the reform of the Borrower's tax and customs systems, through the provision of technical advisory services.

(b) Carrying out analytical survey and updating of recent studies about the main economic sectors in the territory of the Borrower, the design and implementation of a bi-annual consultative mechanism between the private sector, stakeholders and public sector for the presentation and discussion of the results of these surveys and studies, through the provision of technical advisory services.

(c) Strengthening private representative associations, including the assistance to develop their operational business plans and the financing of performance based service contracts with each one of these associations, through the provision of technical advisory services and training.

Part C: Implementation and Capacity Building

Strengthening of the capacity of PIU to coordinate the implementation of the Project, through the acquisition of equipment, material and supplies, and provision of technical advisory services, training and operating costs.

* * *

The Project is expected to be completed by September 30, 2007.

SCHEDULE 3

Procurement

Section I. Procurement of Good and Works

Part A: General

Goods and works shall be procured in accordance with the provisions of 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).

Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods and works 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 and works to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

Part C: Other Procurement Procedures

1. National Competitive Bidding

Works estimated to cost less than \$200,000 equivalent per contract, up to an aggregate amount not to exceed \$350,000 equivalent, and goods estimated to cost less than \$100,000 and more than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$370,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. International or National Shopping

Goods estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$1,600,000 equivalent, may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

Goods estimated to cost more than \$50,000 equivalent per contract, may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provision of paragraphs 3.5 and 3.6 of the Guidelines.

3. Procurement from UN Agencies

Goods estimated to cost less than \$50,000 equivalent may be procured from Inter Agency Procurement Office of the United Nations (IAPSO) in accordance with the provisions of paragraph 3.9 of the Guidelines.

4. Procurement of Small Works

Works estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$300,000 equivalent, may be procured under lump-sum, fixed-price contracts awarded on the basis of quotations obtained from three (3) qualified domestic contractors in response to a written invitation. The invitation shall include a detailed description of the works, including basic specifications, the required completion date, a basic form of agreement acceptable to the Association, and relevant drawings, where applicable. The award shall be made to the contractor who offers the lowest price quotation for the required work, and who has the experience and resources to complete the contract successfully.

Part D: 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 for 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 and works 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

With respect to each contract for goods and works estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

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 Guidelines shall apply.

Section II. Employment of Consultants

Part A: General

Consultants' services shall be procured in accordance with the provisions of 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).

Part B: Quality- and Cost-based Selection

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.

Part C: Other Procedures for the Selection of Consultants

1. Least-cost Selection

Services estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

2. Selection Based on Consultants' Qualifications

Services estimated to cost less than \$50,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

3. 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 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 each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 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.

SCHEDULE 4

Implementation Program

1. The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators set forth in Schedule 6 to this Agreement, the carrying out 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 not later than sixty days after the end of each calendar semester (6 months) of each year of Project implementation, 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 the Project during the calendar semester preceding the date of said report, provided, however, that the first report to be furnished to the Association shall cover the period from April 1, 2002 through December 31, 2002, and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date;

(c) review with the Association, by January 31, 2003, 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 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; and

(d) the Borrower shall ensure that the PIU shall maintain its operations under terms and conditions satisfactory to the Association including qualified and experienced management and staff.

2. PIM

Except as the Association shall otherwise agree, the Borrower shall apply the procedures and guidelines set out in the PIM, and the Borrower shall not assign, amend, abrogate or waive the PIM or any provision thereof which, in the opinion of the Association, will materially or adversely affect the implementation of the Project.

Part A.3 of the Project

3. Eligibility Criteria for EFF Grants

Without limitation on the provisions of paragraph 2 above, no EFF Grants shall be eligible for financing out of the proceeds of the Credit unless the PIU shall have determined, on the basis of an appraisal conducted in accordance with the guidelines set forth in the PIM, that the EFF Grants satisfies the eligibility criteria specified in more detail in the PIM, which shall include the following:

(a) the EFF Grants shall be for the purposes and activities described in Schedule 2, Part A.3 to this Agreement;

(b) the EFF Grants shall be initiated by a Beneficiary;

(c) the EFF Grants shall be economically, financially and technically viable in accordance with the standards specified in the PIM. Existing private firms in manufacturing, agro-processing and exportable services sector shall be eligible to apply for EFF Grants which shall be made on a "first-come, first-served" basis;

(d) the EFF Grants shall be in the form of: (i) 50/50 cost sharing grants for private investment for equity financing, and (ii) 90/10 cost sharing for private investment for training; and

(e) for an applicant to qualify for a EFF Grant, it must: (i) have a plan for building competitiveness; (ii) in the case of (a) investment for equity financing be prepared to contribute from its own resources 50% of the funds requested, and (b) investment for training be prepared to contribute from its own resources 10% of the funds requested; (iii) incorporate in the plan's design, features enabling the plan's outputs to be measured and verified; (iv) furnish sufficient evidence showing that the activity to be financed from the EFF Grant is likely to strengthen and improve the firm's performance under its business plan; and (v) furnish with its application such

other evidence as the Steering Committee shall, with the prior agreement of the Association, reasonably request.

4. -Steering Committee

(a) the Borrower shall maintain in a form and with functions and staffing satisfactory to the Association a Steering Committee to be responsible, inter alia, for monitoring the overall execution of Part A.3 of the Project and approval of each proposal for an EFF Grant;

(b) the Steering Committee may, with the prior agreement of the Association, form such committees of the Steering Committee as it may consider necessary to assist it in carrying out of its functions under the Project; and

(c) the Steering Committee shall, subject to such changes in membership as the Borrower and the Association may from time to time determine, consist of the members as listed in the PIM.

5. Terms and Conditions of EFF Grants

In financing EFF Grants, MEF shall enter into an EFF Grant Agreement with the Beneficiary, under terms and conditions which shall include the following:

(a) financing to be on a grant basis and, unless otherwise agreed with the Association, not to exceed the equivalent of \$200,000 per EFF Grant;

(b) the obligation to carry out the EFF Grant in accordance with the PIM, with due diligence and efficiency and in accordance with sound technical, financial, environmental and managerial standards and to maintain adequate records to reflect, in accordance with sound accounting practices, the operations, resources and expenditures in respect of the EFF Grant;

(c) the requirement that: (i) the goods, works and services to be financed from the proceeds of the Credit shall be procured in accordance with the procedures set forth in Schedule 3 to this Agreement, and (ii) such goods, works and services shall be used exclusively in the carrying out of the EFF Grant;

(d) the right of MEF to inspect by itself, or jointly with the Association, if the Association shall so request, the goods, works, sites, plants and construction included in the EFF Grant, the operations thereof and any relevant records and documents;

(e) the right of MEF to obtain all information as the Association shall reasonably request regarding the administration, operation and financial conditions of the EFF Grant; and

(f) the right of MEF to suspend or terminate the right of the private Beneficiary to use the proceeds of the Credit for the EFF Grant upon the failure by the Beneficiary to perform

any of its obligations under the EFF Grant Agreement.

6. Midterm Review

The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the Performance Indicators specified in Schedule 6 to this Agreement, the carrying out of the Project and the achievement of the objectives thereof;

(b) carry out, jointly with the Bank, not later than 32 months after effectiveness date, a Midterm Review of the Project, which shall cover, inter alia: (i) progress made in meeting the Project's objectives; (ii) progress made in implementing the Private Sector Policy Statement; and (iii) overall Project performance as measured against Performance Indicators;

(c) at least three (3) weeks prior to the Midterm Review, furnish to the Association a report describing the status of the items listed in paragraph (a) above and of Project implementation generally; and

(d) not later than four (4) weeks after the Midterm Review, prepare an action program, acceptable to the Association, for further implementation of the Project having regard to the findings of the Midterm Review and, thereafter, implement such action program.

SCHEDULE 5

Special Accounts

1. For the purposes of this Schedule:

(a) the term "Eligible Categories" means Categories (1), (2), (3), (4), and (7) set forth in paragraph 1 of Schedule 1 to this Agreement for Parts A.1, A.2 (c), B and C of the Project, Category (6) set forth in said table in respect of Parts A.2 (a), (b) and (d) of the Project and Category (5) set forth in said table in respect of Part A.3 of the Project;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods, works and services required for the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount of FCFA 750,000,000 to be withdrawn from the Credit Account and deposited into the Special Account A and an amount of FCFA 375,000,000 to be withdrawn from the Credit Account and deposited into the Special Account B, pursuant to paragraph 2 of this Annex; provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount of FCFA 375,000,000 for Special Account A and FCFA 187,500,000 for Special Account B, until

the aggregate amount of withdrawals from the Credit Account, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of SDR 2,000,000.

2. Payments out of the respective Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Association has received evidence satisfactory to it that the respective Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the respective Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the respective Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the respective Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the respective Special Account, the Borrower shall furnish to the Association requests for deposits into the respective Special Account at such intervals as the Association shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the respective Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the respective Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the respective Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Association shall not be required to make further deposits into any Special Account:

(a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this

Agreement;

(b) if the Borrower shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Accounts;

(c) if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Credit allocated to the eligible Categories for the respective Special Account A for Part A, B and C, excluding Part A.3 of the Project, and Special Account B for Part A.3 of the Project, minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the respective Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of any Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the respective Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no further deposit by the Association into any Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in any Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) The Borrower may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the Special Accounts.

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in

accordance with the relevant provisions of this Agreement, including the General Conditions.

SCHEDULE 6

Performance Indicators

Progress towards the project development objectives will be assessed in terms of:

1. Infrastructure Sector

- (a) Reforms implemented and institutional capacity to regulate private participation strengthened. Privatization program implemented and private investments implemented.
- (b) Sector strategies/policies approved by Borrower and implementation started.
- (c) Appropriate legislation enacted for telecommunications, civil aviation, water and energy sectors.

2. Telecommunications

- (a) Competition in sector and capacity of regulator enhanced.
- (b) Revised concession contract in place (by midterm review).
- (c) Two cellular licenses issued (one prior to midterm review).
- (d) Legal and regulatory framework established (by midterm review).
- (e) Teledensity increased (16,000 fixed lines and 20,000 cellular customers by 2007).

3. Civil aviation

- (a) Revised civil aviation code in place by mid-term review.
- (b) Civil Aviation authority fully operational by 2006.
- (c) Bissau airport facilities and safety improved.

(d) Evidence that frequency of flights and number of passengers increased.

4. Water and Energy, and Port

(a) Bidding documents for the Water and Energy sectors prepared by 2003.

(b) Port master plan for the Port prepared and adopted by 2005.

5. Regulatory institution and privatization of remaining industrial and commercial PE's, and EFF

(a) Multi-sectoral regulatory agency established and operational by mid-term review.

(b) Sale contracts signed and payments received for divested PE's.

(c) End-of-service benefits for retrenched workers paid in time in accordance with Government policy.

(d) Privatization/liquidation of 33 PE's by June 2007: (i) BIGB (liquidation) by June 2003; (ii) 18 PE's by mid-term review; and (iii) remaining PE's by June 2007.

(e) Environmental audits carried out for all identified PEs before completion of each transaction.

(f) Full audits for 6 PEs; partial audits for 4 PEs.

(g) 15 viable private investments.

6. Legal Reform

(a) National laws modernized and revised to be compatible with OHADA. Publication of new laws and regulations.

(b) Legal institutional capacity strengthened. At least 70% of judges, lawyers and other legal staff have been trained. Improvements in the performance of the tribunal in Bissau (50 percent reduction in time for issuing judgment).

7. Investment Climate

(a) Action plans resulting from administrative barrier and tax studies implemented by mid-term review.

(b) Supply response and competitiveness stimulated in six key sub-sectors or entry points (increase in domestic value-added of 50 percent) by 2007.

