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**LOAN NUMBER 4793 MK**

# **Loan Agreement**

**(Business Environment Reform and Institutional Strengthening Project)**

**between**

**FORMER YUGOSLAV REPUBLIC OF MACEDONIA  
(the Borrower)**

**and**

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT  
(the Bank)**

**Dated October 14, 2005**



**LOAN NUMBER 4793 MK**

**LOAN AGREEMENT**

AGREEMENT, dated October 14, 2005, between the Borrower and the Bank.

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

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the Loan 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 Loan and Guarantee Agreements for Single Currency Loans" of the Bank, dated May 30, 1995 (as amended through May 1, 2004), with the modifications set forth below (the General Conditions), constitute an integral part of this Agreement:

(a) Section 5.08 of the General Conditions is amended to read as follows:

"Section 5.08. *Treatment of Taxes*

Except as otherwise provided in the Loan Agreement, the proceeds of the Loan may be withdrawn to pay for taxes levied by, or in the territory of, the Borrower or the Guarantor on the goods or services to be financed under the Loan, or on their importation, manufacture, procurement or supply. Financing of such taxes is subject to the Bank's policy of requiring economy and efficiency in the use of the proceeds of its loans. To that end, if the Bank shall at any time determine that the amount of any taxes levied on or in respect of any item to be financed out of the proceeds of the Loan is excessive or otherwise unreasonable, the Bank may, by notice to the Borrower, adjust the percentage for withdrawal set forth or referred to in respect of such item in the Loan Agreement as required to be consistent with such policy of the Bank."

(b) Section 6.03 (c) of the General Conditions is amended by replacing the words "corrupt or fraudulent" with the words "corrupt, fraudulent, collusive or coercive".

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:

(a) “ARCS” means, collectively, an administrative barriers review and administrative and regulatory cost survey.

(b) “CPC” means the Commission for the Protection of Competition of the Borrower, and includes any successor thereto.

(c) “Central Registry” means the Central Registry of the Republic of Macedonia and its branches established pursuant to the Law on the Central Registry published in the Official Gazette No. 50/01 dated July 2, 2001, as amended, and includes any successor thereto.

(d) “Eligible Categories” means Categories (1), (2) and (3) set forth in the table in Part A.1 of Schedule 1 to this Agreement.

(e) “Eligible Expenditures” means the expenditures for goods and consultants’ services referred to in Section 2.02 of this Agreement.

(f) “FM Manual” means the manual, dated May 13, 2005, referred to in Section 4.03 of this Agreement, satisfactory to the Bank, to be adopted by the Borrower through the MOE, and setting out the financial management and internal control policies and procedures for the implementation of the Project.

(g) “Financial Monitoring Report” or “FMR” means each financial monitoring report prepared in accordance with Section 4.02 of this Agreement.

(h) “IPU” means the Borrower’s Industrial Policy Unit established within the MOE, and includes any successor thereto.

(i) “MOE” means the Borrower’s Ministry of Economy, and includes any successor thereto.

(j) “MSTQ” means metrology, standardization, testing and quality.

(k) “MSTQ Institutions” means, collectively, the Borrower’s Bureau of Metrology, the Institute for Standardization of the Republic of Macedonia, and the Institute for Accreditation of the Republic of Macedonia, and includes any successor to any one thereof; and “MSTQ Institution” refers to any of them individually.

(l) “NBRM” means the National Bank of the Republic of Macedonia, and includes any successor thereto.

(m) “PCU” means the Project Coordination Unit, established within the MOE by order of the Minister of Economy, No. 02-3109/2, dated April 29, 2005 and referred to in paragraph 2 of Part A of Schedule 5 to this Agreement.

(n) “Procurement Plan” means the Borrower’s procurement plan, dated May 12, 2005, covering the initial 18 month period (or longer) of Project implementation, as the same shall be updated from time to time in accordance with the provisions of Section 3.02 to this Agreement, to cover succeeding 18 month periods (or longer) of Project implementation.

(o) “Project Beneficiaries” means, collectively, as some of these terms are defined hereafter, the SER, legal and economic staff within selected line-ministries of the Borrower, the MSTQ Institutions, the CPC, the SaC, the SaU, the IPU, the Central Registry and the NBRM.

(p) “Report-based Disbursements” means the Borrower’s option for withdrawal of funds from the Loan Account referred to in Part A.4 of Schedule 1 to this Agreement.

(q) “SaC” means the Borrower’s State-aid Commission, and includes any successor thereto.

(r) “SaU” means the Borrower’s State-aid Unit established within the MOE, and includes any successor thereto.

(s) “SER” means the Sector for Economic Reforms to be established within the General Secretariat of the Borrower in connection with Part A of the Project and referred to in Section 2 of Part B of Schedule 5 to this Agreement, and includes any successor thereto.

(t) “Special Account” means the account referred to in Part B of Schedule 1 to this Agreement.

## **ARTICLE II**

### **The Loan**

Section 2.01. 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 eight million eight hundred thousand Euro (€8,800,000).

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Loan and in respect of the fee referred to in Section 2.04 of this Agreement.

Section 2.03. The Closing Date shall be March 31, 2010 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 front-end fee in an amount equal to one percent (1%) of the amount of the Loan, subject to any waiver of a portion of such fee as may be determined by the Bank from time to time. On or promptly after the Effective Date, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amount of such fee.

Section 2.05. 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 2.06. (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 2.07 of this Agreement.
- (iii) “LIBOR Base Rate” means, for each Interest Period, the London interbank offered rate for six-month deposits in Euro 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) three-fourths of one percent ( $3/4$  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 2.06, 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 new 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 2.07. Interest and other charges shall be payable semiannually in arrears on April 15 and October 15 in each year.

Section 2.08. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

### **ARTICLE III**

#### **Execution of the Project**

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project, and, to this end, shall carry out the Project, through the MOE, with due diligence and efficiency and in conformity with appropriate administrative, financial, and business environment and regulation practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Bank shall otherwise agree, the Borrower, through the MOE, shall carry out the Project in accordance with the Implementation Program set forth in Schedule 5 to this Agreement.

Section 3.02. (a) Except as the Bank shall otherwise agree, procurement of the goods and services required for the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to this Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) The Borrower shall update the Procurement Plan in accordance with guidelines acceptable to the Bank, and furnish such update to the Bank not later than 12 months after the date of the preceding Procurement Plan, for the Bank's approval.

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 Bank, and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be

agreed for this purpose between the Borrower and the Bank, a plan designed to ensure the continued achievement of the Project's objectives; and

(b) afford the Bank a reasonable opportunity to exchange views with the Borrower on said plan.

#### **ARTICLE IV**

##### **Financial Covenants**

Section 4.01. (a) The Borrower, through the MOE, shall maintain a financial management system, including records and accounts, and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Bank, adequate to reflect the operations, resources and expenditures related to the Project.

(b) The Borrower, through the MOE, shall:

- (i) have the financial statements referred to in paragraph (a) of this Section for each fiscal year (or other period agreed to by the Bank), audited, commencing with the accounts for the year ending December 31, 2006, in accordance with consistently applied auditing standards acceptable to the Bank, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year (or such other period agreed to by the Bank): (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year (or other period agreed to by the Bank), as so audited; and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Bank; and
- (iii) furnish, and shall ensure that the MOE and the PCU each furnishes, to the Bank such other information concerning such records and accounts, and the audit of such financial statements, and concerning said auditors, as the Bank may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Loan Account were made on the basis of reports referred to in Part A.5 of Schedule 1 to this Agreement (Report-based Disbursements) or on the basis of statements of expenditure, the Borrower, through the MOE, shall:

- (i) retain, until at least one year after the Bank has received the audit report for, or covering, the fiscal year in which the last withdrawal from the Loan Account was made, all records



(contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;

- (ii) enable the Bank's representatives to examine such records; and
- (iii) ensure that such reports and statements of expenditure are included in the audit for each fiscal year (or other period agreed to by the Bank), referred to in paragraph (b) of this Section.

Section 4.02. (a) Without limitation upon the Borrower's progress reporting obligations set out in Part C of Schedule 5 to this Agreement, the Borrower, through the MOE, shall prepare and furnish to the Bank a financial monitoring report, in form and substance satisfactory to the Bank, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Loan, and explains variances between the actual and planned 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 actual and planned Project implementation; 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 Bank not later than 45 days after the end of the first 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 Bank not later than 45 days after each subsequent calendar quarter, and shall cover such calendar quarter.

Section 4.03. Subject to the provisions of sub-paragraph 4 (b) of Part B of Schedule 1 and paragraph 3 of Annex A to Schedule 1 of this Agreement, the Borrower, through the MOE, shall, and shall cause the Project Beneficiaries to, follow the financial management and internal control policies and procedures set forth in the FM Manual for purposes of the Project.

## **ARTICLE V**

### **Termination**

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  
Dame Gruev 14  
1000 Skopje

Cable address:

Telex:

Facsimile:

51119

(389-2) 311-7280

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:	Facsimile:
INTBAFRAD Washington, D.C.	248423 (MCI) or 64145 (MCI)	(202) 477-6391

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 city of Skopje, as of the day and year first above written.

**BORROWER**

By /s/ Nikola Popovski  
Authorized Representative

**BANK**

By /s/ Sandra Bloemenkamp  
Authorized Representative

**SCHEDULE 1**

**Withdrawal of the Proceeds of the Loan**

A. General

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

<u>Category</u>	<u>Amount of the Loan Allocated (Expressed in Euro)</u>	<u>% of Expenditures to be Financed</u>
(1) Goods, consultants' services, including auditing services, Incremental operating costs, and Training	6,806,000	90%
(2) Goods under Part B (i) of the Project for the Bureau of Metrology	1,950,000	90%
(3) Front-end fee	<u>44,000</u>	Amount due under Section 2.04 of this Agreement
<b>TOTAL</b>	<b><u>8,800,000</u></b>	

2. For the purposes of this Schedule:

(a) the term "Incremental operating costs" means reasonable and necessary incremental expenditures, approved by the Bank on the basis of annual budgets acceptable to the Bank, incurred by the PCU on account of Project implementation, management and monitoring, including communication costs, courier and postage costs, translation and interpretation costs, bank charges, publication of procurement notices, and other miscellaneous costs directly associated with the implementation of Project activities as may be agreed with the Bank, but excluding salaries or honoraria of officials and employees of the Borrower, including, without limitation, salaries or honoraria of officials and employees of the PCU or any of the other Project Beneficiaries; and

(b) the term "Training" means training activities (other than consultants' services) to be carried out under the Project, as approved by the Bank on the basis of

annual training and study tour plans acceptable to the Bank, including the reasonable and necessary local and international travel and visa expenses incurred by participants in training workshops and study tours, as well as lodging, subsistence, local and international per diem allowances, registration, tuition and facilitators' fees, minor organizational expenses (including costs of stationery, handouts and training materials), translation and interpretation costs, facility(ies) rental costs, and other expenditures directly relating to the training workshop and study tour activity, as may be agreed with the Bank.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of: (a) payments made for expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding □100,000, may be made in respect of Training of the PCU's staff in the Bank's fiduciary requirements, as well as consultants' services in connection with the appointment of a procurement expert for the PCU, set forth in the table in paragraph 1 of this Schedule on account of payments made for expenditures before that date but after May 31, 2005; and (b) any expenditures under Category (2) in the table in paragraph 1 above unless and until the Bank shall have determined that the Bureau of Metrology is adequately staffed with technically qualified individuals.

4. The Bank may require withdrawals from the Loan Account to be made on the basis of statements of expenditure for expenditures under contracts for: (a) goods and technical services costing less than □75,000 equivalent per contract; (b) services of individual consultants costing less than □50,000 equivalent per contract; (c) services of consulting firms under contracts costing less than □75,000 equivalent per contract; and all under such terms and conditions as the Bank shall specify by notice to the Borrower.

5. The Borrower may request withdrawals from the Loan Account to be made on the basis of reports to be submitted to the Bank in form and substance satisfactory to the Bank, such reports to include the FMR and any other information as the Bank shall specify by notice to the Borrower (Report-based Disbursements). In the case of the first such request submitted to the Bank before any withdrawal has been made from the Loan Account, the Borrower shall submit to the Bank only a statement with the projected sources and applications of funds for the Project for the three-month period following the date of such request.

B. Special Account

1. The Borrower shall open and maintain in Euro a special deposit account in the National Bank of the Republic of Macedonia, the central bank of the Borrower.

2. After the Bank has received evidence satisfactory to it that the Special Account has been opened, withdrawals from the Loan Account of amounts to be deposited into the Special Account shall be made as follows:

(a) if the Borrower is not making Report-based Disbursements, withdrawals shall be made in accordance with the provisions of Annex A to this Schedule 1; and

(b) if the Borrower is making Report-based Disbursements, withdrawals shall be made in accordance with the provisions of Annex B to this Schedule 1.

3. Payments out of the Special Account shall be made exclusively for Eligible Expenditures. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for Eligible Expenditures.

4. Notwithstanding the provisions of Part B.2 of this Schedule, the Bank shall not be required to make further deposits into the Special Account:

(a) if the Bank, at any time, is not satisfied that the reports referred to in Part A.4 of this Schedule 1 adequately provide the information required for Report-based Disbursements;

(b) if the Bank determines at any time that all further withdrawals for payment of Eligible Expenditures should be made by the Borrower directly from the Loan Account; or

(c) if the Borrower shall have failed to furnish to the Bank, 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 Bank pursuant to said Section in respect of the audit of: (A) the records and accounts for the Special Account; or (B) the records and accounts reflecting expenditures with respect to which withdrawals were Report-based Disbursements or were made on the basis of statements of expenditure, as the case may be.

5. The Bank shall not be required to make further deposits into the Special Account in accordance with the provisions of Part B.2 of this Schedule if, at any time, the Bank 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 Loan Account pursuant to Section 6.02 of the General Conditions. Upon such notification, the Bank shall determine, in its sole discretion, whether further deposits into the Special Account may be made and what procedures should be followed for making such deposits, and shall notify the Borrower of its determination.

6. (a) If the Bank determines at any time that any payment out of the Special Account was made for an expenditure which is not an Eligible Expenditure, or was not justified by the evidence furnished to the Bank, the Borrower shall, through the MOE, promptly upon notice from the Bank, provide such additional evidence as the Bank may request, or deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment. Unless the Bank shall otherwise

agree, no further deposit by the Bank into the Special Account shall be made until the Borrower, through the MOE, has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Bank determines at any time that any amount outstanding in the Special Account will not be required to cover payments for Eligible Expenditures during the six-month period following such determination, the Borrower shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

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

(d) Refunds to the Bank made pursuant to subparagraphs (a), (b) or (c) of this paragraph 6 shall be credited to the Loan Account for subsequent withdrawal or for cancellation in accordance with the provisions of the Loan Agreement.

**Annex A  
to  
SCHEDULE 1**

**Operation of Special Account  
When Withdrawals Are Not  
Report-based Disbursements**

1. For the purposes of this Annex, the term “Authorized Allocation” means the amount of \$800,000 to be withdrawn from the Loan Account and deposited into the Special Account pursuant to paragraph 2 of this Annex.

2. Withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

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

(b) For replenishment of the Special Account, the Borrower, through the MOE, shall furnish to the Bank requests for deposit into the Special Account at such intervals as the Bank shall specify. Prior to or at the time of each such request, the Borrower, through the MOE, shall furnish to the Bank the documents and other evidence required pursuant to Part B.3 of Schedule 1 to this Agreement for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the 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 Special Account for Eligible Expenditures. Each such deposit into the Special Account shall be withdrawn by the Bank from the Loan Account under one or more of the Eligible Categories.

3. The Bank shall not be required to make further deposits into the Special Account, once the total unwithdrawn amount of the Loan minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Loan Account of the remaining unwithdrawn amount of the Loan shall follow such procedures as the Bank shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special



Account as of the date of such notice will be utilized in making payments for Eligible Expenditures.

**Annex B  
to  
SCHEDULE 1**

**Operation of Special Account  
When Withdrawals Are  
Report-based Disbursements**

1. Withdrawals from the Loan Account shall be deposited by the Bank into the Special Account in accordance with the provisions of Schedule 1 to this Agreement. Each such deposit into the Special Account shall be withdrawn by the Bank from the Loan Account under one or more of the Eligible Categories.
  
2. Upon receipt of each application for withdrawal of an amount of the Loan, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and deposit into the Special Account an amount equal to the lesser of: (a) the amount so requested; and (b) the amount which the Bank has determined, based on the reports referred to in Part A.4 of this Schedule 1 applicable to such withdrawal application, is required to be deposited in order to finance Eligible Expenditures during the three-month period following the date of such reports.

## **SCHEDULE 2**

### **Description of the Project**

The objective of the Project is to strengthen the capacity of the Borrower to improve selected areas of the business environment in an European Union-oriented context.

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

#### **Part A: Business Regulation**

The provision for institutional development and capacity building for improving in a systematic manner the quality of regulations affecting business activity through: (i) building the institutional and legal framework necessary to develop and implement a comprehensive approach to regulatory reforms; (ii) building a regulatory management system at line-ministry and central government levels; (iii) developing the capacity to improve the quality of new and existing regulations, through regulatory impact analysis and complementary methods such as the guillotine, starting with a pilot for business licensing and market inspections; (iv) establishing a comprehensive and central registry of regulations; and (v) undertaking small business surveys and two ARCS to assess outcomes of Part A of the Project; through the provision of technical assistance, goods, training, equipment, workshops and study tours.

#### **Part B: MSTQ System**

The provision for institutional development and capacity building of the Borrower's national metrology, standardization, testing and quality system in order to provide European Union-compatible services through: (i) modernizing the Borrower's metrology infrastructure; (ii) strengthening the capacity of the Borrower's MSTQ Institutions to carry out their mandate in an European Union-oriented environment; (iii) increasing business sector awareness of the challenges and opportunities of competing in the European Union market, including by means of public awareness campaigns; and (iv) assisting each MSTQ Institution and the Borrower to draft a development strategy to bring the Borrower closer to European Union requirements; through the provision of technical assistance, training, equipment, goods, workshops and study tours.

#### **Part C: Competition Policy Regime**

The provision for institutional development and capacity building of the Borrower's capacity to implement a European Union-compliant competition policy regime through: (i) strengthening the institutional capacity of the CPC, the SaC and the SaU to implement a competition policy regime in line with the *acquis communautaire*;

(ii) strengthening the institutional capacity of the IPU to design and implement industrial measures in line with European Union requirements; (iii) increasing public awareness of competition policy issues, including the functioning of state-aid among relevant stakeholders; and (iv) providing training and seminars for relevant stakeholders in competition policy; through the provision of technical assistance, training, equipment, goods and study tours.

Part D: Access to Information

The provision of assistance to the NBRM in the establishment of a credit reporting system providing comprehensive and timely positive and negative information on borrowers in line with relevant European Union legislation on privacy and consumer data protection, and internationally recognized best practices for credit registries, as well as the provision for institutional development and capacity building to the Central Registry and its branch offices to: (i) design and implement a centralized database to make relevant business-related information available to the public; (ii) establish a one-stop-shop system to streamline business registration; and (iii) review and prepare a legal framework and governance rules for the Central Registry in line with European Union practices; through the provision of technical assistance, training, goods and equipment.

Part E: Project Coordination Support

The provision for institutional development and capacity building of the PCU, as well as support for: (i) the proper implementation of Project-related activities; (ii) the design and establishment of a Project monitoring and evaluation system; (iii) Project dissemination activities; (iv) integrated information campaigns and business surveys; and (v) auditing of Project accounts; through the provision of technical assistance, training, equipment, goods, and incremental operating costs.

\* \* \*

The Project is expected to be completed by September 30, 2009.

**SCHEDULE 3**

**Amortization Schedule**

<u>Date Payment Due</u>	Payment of Principal (Expressed in <u>Euro</u> )
On each October 15 and April 15 beginning October 15, 2010 through October 15, 2021	365,000
On April 15, 2022	405,000

## **SCHEDULE 4**

### **Procurement**

#### Section I. General

A. All goods and services (other than consultants' services) shall be procured in accordance with the provisions of Section I of the "Guidelines: Procurement under IBRD Loans and IDA Credits" dated May 2004 (the Procurement Guidelines), and with the provisions of this Schedule.

B. All consultants' services shall be procured in accordance with Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" dated May 2004 (the Consultant Guidelines), and with the provisions of this Schedule.

C. The capitalized terms used below in this Schedule to describe particular procurement methods or methods of review by the Bank of particular contracts, have the meanings ascribed to them in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

#### Section II. Particular Methods of Procurement of Goods and Services (other than Consultants' Services)

A. International Competitive Bidding. Except as otherwise provided in Part B of this Section, contracts shall be awarded on the basis of International Competitive Bidding. The provisions of paragraphs 2.55 and 2.56 of the Procurement Guidelines, providing for domestic preference in the evaluation of bids, shall apply to goods manufactured in the territory of the Borrower.

#### B. Other Procurement Procedures

1. Limited International Bidding. Specialized metrology equipment estimated to cost less than □200,000 equivalent per contract which the Bank agrees can only be purchased from a limited number of suppliers may be procured under contracts awarded on the basis of Limited International Bidding

2. National Competitive Bidding. Technical services and goods estimated to cost less than □220,000 equivalent per contract, may be procured under contracts awarded on the basis of National Competitive Bidding and the following additional provisions:

- (a) Eligibility: Foreign bidders shall not be excluded from bidding and no preference of any kind shall be given to national bidders;
- (b) Procedures: "Open Tendering" procedures shall be followed in all cases. Invitations to bid shall be advertised in at least one widely circulated

national daily newspaper, allowing minimum of 30 days for preparation and submission of bids.

- (c) Participation by Government-Owned enterprises: Government-owned enterprises shall be eligible to participate in bidding only if they can establish that they are legally and financially autonomous, operate under commercial law and are not a dependent agency of the Borrower. Such enterprises shall be subject to the same bid and performance security requirements as other bidders.
- (d) Bidding Documents: Appropriate standard bidding documents for procurement of goods and technical services shall be used, which shall include draft contract and conditions of contract, satisfactory to the Bank. The technical specifications contained in the bidding documents shall be precise and clearly written and describe the subject procurement in an objective, strictly functional and impartial manner.
- (e) Submission of Bids: Bidders may, at their option, submit bids either in person, by courier services or by mail at any time prior to the deadline for submission of bids.
- (f) Bid Opening and Evaluation: Bids shall be opened immediately after the deadline for submission of bids and in public. The time and place for bid opening shall be announced in the bidding documents. Evaluation of bids shall be made in strict adherence to the bid evaluation criteria, expressed in quantifiable terms and disclosed in the bidding documents. The contracts shall be awarded to qualified bidders having submitted the lowest evaluated substantially responsive bid. The bidder recommended for award of contract shall be required to comply with minimum experience and technical and financial requirements disclosed in the bidding documents. Negotiations shall not be allowed with lowest evaluated bidder or any other bidder.
- (g) Rejection of Bids: All bids shall not be rejected and new bids shall not be solicited without the Bank's prior concurrence.
- (h) Securities: The bid securities shall not exceed 3% of the estimated cost of the contract. The performance securities shall not exceed 10% of the contract amount. No advance payment shall be made without a suitable advance payment security for the same amount.

3. Shopping. Goods estimated to cost less than ₦75,000 equivalent per contract may be procured under contracts awarded on the basis of Shopping.

4. Direct Contracting. Highly specialized metrology components which the Bank agrees meet the requirements for Direct Contracting may be procured in accordance with the provisions of said procurement method.

Section III. Particular Methods of Procurement of Consultants' Services

A. Quality- and Cost-based Selection. Except as otherwise provided in Part B of this Section, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection. For purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than □75,000 equivalent per contract may comprise entirely national consultants.

B. Other Procedures

1. Selection Under a Fixed Budget. Services for assignments which the Bank agrees meet the requirements of paragraph 3.5 of the Consultant Guidelines may be procured under contracts awarded on the basis of a Fixed Budget in accordance with the provisions of paragraphs 3.1 and 3.5 of the Consultant Guidelines.

2. Least-cost Selection. Services for assignments which the Bank agrees meet the requirements of paragraph 3.6 of the Consultant Guidelines may be procured under contracts awarded on the basis of Least-cost Selection in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

3. Selection Based on Consultants' Qualifications. Services estimated to cost less than □150,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1, 3.7 and 3.8 of the Consultant Guidelines.

4. Single Source Selection. Services for tasks in circumstances which meet the requirements of paragraph 3.10 of the Consultant Guidelines for Single Source Selection, may, with the Bank's prior agreement, be procured in accordance with the provisions of paragraphs 3.9 through 3.13 of the Consultant Guidelines.

5. Individual Consultants. Services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.2 through 5.3 of the Consultant Guidelines. Under the circumstances described in paragraph 5.4 of the Consultant Guidelines, such contracts may be awarded to individual consultants on a sole-source basis.

6. Incremental operating costs. Reasonable and necessary incremental expenditures, as approved by the Bank on the basis of budgets acceptable to the Bank, incurred by the PCU on account of Project implementation, management and monitoring, including communication costs, courier and postage costs, translation and interpretation costs, bank charges, publication of procurement notices, and other miscellaneous costs



directly associated with the implementation of Project activities as may be agreed with the Bank, but excluding salaries or honoraria of officials and employees of the Borrower, including, without limitation, salaries or honoraria of officials and employees of the PCU or any of the other Project Beneficiaries, would be procured using the relevant entity's administrative procedures which were reviewed and found acceptable to the Bank.

Section IV. Review by the Bank of Procurement Decisions

Except as the Bank shall otherwise determine by notice to the Borrower, the following contracts shall be subject to Prior Review by the Bank: (a) each contract for goods and technical services estimated to cost  $\square 75,000$  equivalent per contract or more procured on the basis of International Competitive Bidding and Limited International Bidding; (b) the first contracts for goods procured under National Competitive Bidding; (c) the first two contracts for goods and technical services procured under Shopping; (d) each contract procured under Direct Contracting; (e) each contract for consultants' services with firms estimated to cost  $\square 75,000$  equivalent per contract or more; (f) each contract for consultants' services procured on the basis of Single Source Selection; and (g) each contract for services of individual consultants estimated to cost  $\square 50,000$  equivalent per contract or more. In addition, annual training and study tours plans of the relevant implementing agencies shall be subject to Prior Review by the Association. All other contracts shall be subject to Post Review by the Bank.

## SCHEDULE 5

### Implementation Program

#### A Project Implementation Management

1. Except as the Bank shall otherwise agree, the Borrower's Minister of Economy shall be responsible for the overall implementation and coordination of the Project, in a timely and effective manner.
2. The Borrower shall cause the Project Beneficiaries to cooperate with the Ministry of Economy, through the PCU, for the purposes of the Project, to ensure its timely and successful implementation.
3. Except as the Bank shall otherwise agree, the PCU shall consist of a Director having experience acceptable to the Bank and appointed by and reporting to the Minister of Economy, as well as up to four members of the Borrower's civil service, and shall, *inter alia*: (i) function as the link between the Project Beneficiaries and the Bank; (ii) be responsible for Project planning and budgeting; financial management, disbursements, and procurement; (iii) be responsible for the monitoring and evaluation of the Government's progress in business environment reforms supported by the Project, including assessment of outcome capacity building activities for each Part of the Project and, to this end, shall prepare biannual progress reports for delivery to the General Secretariat, or, if it shall have been established at the relevant date, to the SER, other policy makers, and the Bank; (iv) support the General Secretariat or, if it shall have been established at the relevant date, to the SER, in organizing dissemination activities about Government progress in implementing the business environment reform agenda; (v) provide and/or mobilize additional procurement and/or financial management support, if necessary; (vi) submit to the Bank an annual work plan and budget for the Project, including, without limitation, an annual training and study tour plan referred to in subparagraph 2 (b) of Part A of Schedule 1 of this Agreement, for the Bank's review and comments by September 30 each year; (vii) submit to the Bank a progress report by January 31 and July 31 of each year, starting with July 31, 2006; (viii) support for the organization of small business surveys and ARCS; and (ix) support for the organization of public information campaigns related to reforms of MSTQ, competition policy, and the one-stop-shop system
4. The Borrower shall cause the MOE to maintain the PCU until completion of the Project with staff, resources and terms of reference satisfactory to the Bank.

#### B. Actions by the Borrower

1. The Borrower, through the MOE, shall cause the Project Beneficiaries to:

(a) participate actively, in cooperation with the PCU, in the technical aspects of the procurement process of the activities foreseen under the relevant Part of the Project; and

(b) establish a monitoring and evaluation system enabling the assessment of outcomes and results under the relevant Part of the Project, in accordance with the indicators acceptable to the Bank, and to provide the results of such assessments to the PCU on a timely basis for, among other purposes, of the biannual progress reports referred to above in sub-paragraph 2 (iii) of this Part A.

2. The Borrower shall take all steps necessary to establish and render operational the SER by March 31, 2006, or such later date as the Bank and the Borrower may otherwise agree in writing.

3. The Borrower, through the MOE, shall cause the PCU to organize integrated public information campaigns for competition policy and MSTQ, the former to be launched no later than by September 30, 2007, and the latter to be launched no later than by December 31, 2007.

C. Monitoring and Evaluation

1. The Borrower, through the MOE, shall cause the PCU to:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators acceptable to the Bank, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, on or about July 31, 2007, 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 period preceding the date of said report 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; and

(c) review with the Bank, by October 31, 2007, or such later date as the Bank 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 Bank's views on the matter, including, without limiting the generality of the foregoing, causing the PCU to hire an independent, private survey or polling company, acceptable to the Bank and under terms of reference satisfactory to the Bank, to undertake a first ARCS, and to provide copies of the survey to the Bank as soon as it is available.

2. The Borrower, through the MOE, shall cause the PCU to hire an independent, private survey or polling company, acceptable to the Bank and under terms of reference satisfactory to the Bank, to undertake an ARCS, the final results of which shall be available for purposes of the plan specified under Section 3.03 (a) of this Agreement, and to provide copies of the survey to the Bank as soon as it is available.