

**CONFORMED COPY**

**CREDIT NUMBER 3645 BOS**

# **Development Credit Agreement**

**(Business Environment Adjustment Credit)**

**between**

**BOSNIA AND HERZEGOVINA**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated June 10, 2002**

**CREDIT NUMBER 3645 BOS**

## **DEVELOPMENT CREDIT AGREEMENT**

AGREEMENT, dated June 10, 2002, between BOSNIA AND HERZEGOVINA (the Borrower) and the INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received a letter dated April 9, 2002, from the Borrower, the Federation of Bosnia and Herzegovina (the Federation) and Republika Srpska,

describing a program of actions, objectives and policies designed to achieve structural adjustment of the business environment sector of the Borrower, the Federation and Republika Srpska (hereinafter called the Program), declaring the commitment of the Borrower, the Federation and Republika Srpska to the execution of the Program, and requesting assistance from the Association in support of the Program during the execution thereof; and

(B) on the basis, inter alia, of the foregoing, the Association has decided in support of the Program to provide such assistance to the Borrower, the Federation and Republika Srpska, by making the Credit in two tranches as hereinafter provided.

NOW THEREFORE the parties hereto hereby agree as follows:

## **ARTICLE I**

### **General Conditions; Definitions**

Section 1.01. The “General Conditions Applicable to Development Credit Agreements” of the Association, dated January 1, 1985 (as amended through October 6, 1999) with the modifications thereof set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) Section 2.01, paragraph 12, is modified to read:

“Project means the program, referred to in the Preamble to the Development Credit Agreement, in support of which the Credit is made.”;

(b) Section 4.01 is modified to read:

“Except as the Borrower and the Association shall otherwise agree, withdrawals from the Credit Account shall be made in the currency of the deposit account specified in Section 2.02 of the Development Credit Agreement.”;

(c) Section 5.01 is modified to read:

“The Borrower shall be entitled to withdraw the proceeds of the Credit from the Credit Account in accordance with the provisions of the Development Credit Agreement and of these General Conditions”;

(d) The last sentence of Section 5.03 is deleted;

(e) Section 9.06 (c) is modified to read:

“(c) 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 Association, the Borrower shall prepare and furnish to the Association a report, of such scope and in such detail as the Association shall reasonably request, on the execution of the program referred to in the Preamble to the Development Credit Agreement, the performance by the Borrower and the Association of their respective obligations under the Development Credit Agreement and the accomplishment of the purposes

of the Credit.”; and

(f) Section 9.04 is deleted and Sections 9.05, 9.06 (as modified above), 9.07 and 9.08 are renumbered, respectively, Sections 9.04, 9.05, 9.06, and 9.07.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) “Deposit Account” means the account referred to in Section 2.02 (b) of this Agreement;

(b) “Entity” means either the Federation or Republika Srpska, as the case may be;

(c) “Euro” means the lawful currency of the member states of the European Union that adopt the single currency in accordance with the Treaty Establishing the European Community, as amended by the Treaty of European Union;

(d) “Federation” means the Federation of Bosnia and Herzegovina, a political sub-division of the Borrower, and includes any successor or successors thereto;

(e) “Federation Subsidiary Credit Agreement” means the agreement to be entered into between the Borrower and the Federation, pursuant to Section 3.01 (a) of this Agreement, as the same agreement may be amended from time to time, and such term includes all schedules supplemental to the Federation Subsidiary Credit Agreement;

(f) “First Tranche” means the tranche of the proceeds of the credit allocated to Category (1) in the table set forth in paragraph 1 of Schedule 1 to this Agreement, to be released by the Association on or after the Effective Date;

(g) “Republika Srpska” means Republika Srpska, a political sub-division of the Borrower, and includes any successor or successors thereto;

(h) “RS Subsidiary Credit Agreement” means the agreement to be entered into between the Borrower and Republika Srpska, pursuant to Section 3.01 (b) of this Agreement, as the same agreement may be amended from time to time, and such term includes all schedules supplemental to the RS Subsidiary Credit Agreement;

(i) “Second Federation Tranche” means the tranche referred to in Category (2) in the table set forth in paragraph 1 of Schedule 1 to this Agreement, to be released by the Association on or after the date on which the conditions referred to in Section 2.02 (d) of this Agreement and in paragraph A of Schedule 2 to this Agreement have been met;

(j) “Second Republika Srpska Tranche” means the tranche referred to in Category (3) in the table set forth in paragraph 1 of Schedule 1 to this Agreement, to be released by the Association on or after the date on which the conditions referred to in Section 2.02 (d) of this Agreement and in paragraph B of Schedule 2 to this Agreement have been met;

(k) “Subsidiary Credit” means a credit provided under a Subsidiary Credit Agreement (defined hereafter);

(l) “Subsidiary Credit Agreement” means either the Federation Subsidiary Credit Agreement or the RS Subsidiary Credit Agreement, as said agreement may be amended from time to time, and such term includes all schedules supplemental to each Subsidiary Credit Agreement; and “Subsidiary Credit Agreements” means said agreements, collectively; and

(m) “Tranche” means any of the following: the First Tranche, the Second Federation Tranche, and the Second Republika Srpska Tranche, as such terms are defined.

## **ARTICLE II**

### **The Credit**

Section 2.01. The Association agrees to lend to the Borrower, on terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to thirty-five million three hundred thousand Special Drawing Rights (SDR 35,300,000).

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

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

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

(d) No withdrawals shall be made from the Credit Account after the aggregate of the proceeds of the Credit withdrawn from the Credit Account shall have reached the equivalent of SDR 15,200,000 unless the Association shall be satisfied, after an exchange of views as described in Section 3.03 of this Agreement based on evidence satisfactory to the Association:

- (i) with the progress achieved by the Borrower in the carrying out of the Program;
- (ii) that the macroeconomic policy framework of the Borrower is satisfactory, as measured on the basis of indicators agreed between the Borrower and the Association; and

- (iii) that the actions described in Schedule 2 to this Agreement have been taken.

If, after said exchange of views, the Association is not so satisfied, the Association may give notice to the Borrower to that effect and, if within 90 days after such notice, the Borrower shall not have taken steps satisfactory to the Association, in respect of (i), (ii) and (iii) above, then the Association may, by notice to the Borrower, cancel the unwithdrawn amount of the Credit or any part thereof.

Section 2.03. The Closing Date shall be December 31, 2003, 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 (60) 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 cancelled; 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 and service charges shall be payable semiannually on April 15 and October 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 April 15 and October 15 commencing October 15, 2012 and ending April 15, 2037. Each installment to and including the installment payable on April 15, 2022, shall be one and one-fourth percent (1-1/4%) of such principal amount, and each installment thereafter shall be two and one-half percent (2-1/2%) 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 (3) 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 the Association 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 (6) 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 (5) 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 the schedule of installments as provided in paragraph (a) above.

Section 2.08. The Euro is hereby specified as currency for the purposes of Section 4.02 of the General Conditions.

### **ARTICLE III**

#### **Particular Covenants**

Section 3.01. The Borrower shall: (a) relend an amount in dollars equivalent to twenty-one million one hundred and eighty thousand Special Drawing Rights (SDR 21,180,000) out of the proceeds of the Credit to the Federation under a subsidiary credit agreement to be entered into between the Borrower and the Federation; and (b) relend an amount in dollars equivalent to fourteen million one hundred and twenty thousand Special Drawing Rights (SDR 14,120,000) out of the proceeds of the Credit to Republika Srpska under a subsidiary credit agreement to be entered into between the Borrower and Republika Srpska, on the following principal terms and conditions:

- (i) the term of each Subsidiary Credit shall be thirty-five (35) years, including a 10-year grace period;
- (ii) the Borrower shall charge the Federation and Republika Srpska a commitment charge at a rate equal to the rate payable under Section 2.04 of this Agreement, on the principal amount of each Subsidiary Credit not

withdrawn from time to time;

- (iii) the Borrower shall charge the Federation and Republika Srpska a service charge on the principal amount of each Subsidiary Credit withdrawn and outstanding from time to time at a rate equal to the rate payable under Section 2.05 of this Agreement;
- (iv) the principal amount of each Subsidiary Credit shall be repayable in Euros and shall be the equivalent in Euros (determined as of the date or respective dates of repayment) of the value of currency or currencies withdrawn from the Credit Account on account of expenditures for the Program; and
- (v) the Borrower shall have the right to require modification in the repayment terms of each Subsidiary Credit in conformity with the provisions of Section 2.07 (b) of this Agreement.

Section 3.02. The Borrower shall exercise its rights under the Subsidiary Credit Agreements in such a manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Program, and, except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Subsidiary Credit Agreements or any provision thereof.

Section 3.03. (a) The Borrower and the Association shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program and the actions specified in Schedule 2 to this Agreement.

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

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Borrower shall exchange views with the Association on any proposed action to be taken after the disbursement of the Credit which would have the effect of materially reversing the objectives of the Program, or any action taken under the Program, including any action specified in Schedule 2 to this Agreement.

Section 3.04. Upon the Association's request, the Borrower shall:

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

(b) furnish to the Association as soon as available, but in any case not later than two (2) months after the date of the Association's request for such audit, a certified copy of the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

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

## **ARTICLE IV**

### **Additional Event of Suspension**

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



## **ARTICLE V**

### **Effective Date; Termination**

Section 5.01. 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) that the Federation Subsidiary Credit Agreement shall have been executed with terms and conditions satisfactory to the Association; and

(b) that the RS Subsidiary Credit Agreement shall have been executed with terms and conditions satisfactory to the Association.

Section 5.02. The following are specified as additional matters, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

(a) that the Federation Subsidiary Credit Agreement has been duly authorized or ratified by, and is legally binding upon the Borrower and the Federation in accordance with its terms; and

(b) that the RS Subsidiary Credit Agreement has been duly authorized or ratified by, and is legally binding upon the Borrower and Republika Srpska in accordance with its terms.

Section 5.03. 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 Treasury of Institutions of the Borrower is designated as the 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 Treasury of Institutions  
of Bosnia and Herzegovina  
TrgBiH  
71000 Sarajevo  
Bosnia and Herzegovina

Facsimile:

387-33-205345

For the Association:

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

Cable address:	Telex:	Facsimile:
INDEVAS Washington, D.C.	248423 (MCI) or 64145 (MCI)	(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 Sarajevo, Bosnia and Herzegovina, as of the day and year first above written.

#### BOSNIA AND HERZEGOVINA

By /s/ Azra Hadziahmetovic  
Authorized Representative

#### INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Joseph Ingram  
Authorized Representative

#### SCHEDULE 1

#### **Withdrawal of the Proceeds of the Credit and Excluded Expenditures**

1. Subject to the provisions set forth or referred to in this Schedule, the table below sets forth the amounts allocated to specific Tranches to be withdrawn from the Credit Account:

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDRs)</u>	<u>% of Expenditures to be Financed</u>
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(1) First Tranche	15,200,000	100%
(2) Second Federation Tranche	12,060,000	100%
(3) Second Republika Srpska Tranche	<u>8,040,000</u>	100%
TOTAL	<u>35,300,000</u>	

2. Notwithstanding the provisions of paragraph 1 above, and for the purposes of Section 2.02 (c) of this Agreement, the proceeds of the Credit shall not be used to finance any of the following expenditures:

(a) expenditures in the currency of the Borrower or for 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 or services are supplied, expenditures in such currency for such goods or services shall not be excluded;

(b) expenditures for goods or services supplied under a contract which any national or international financing institution or agency other than the Bank or the Association shall have financed or agreed to finance, or which the Bank or the Association shall have financed or agreed to finance under another credit or a loan;

(c) expenditures for goods included in the following groups or subgroups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Borrower:

<u>Group</u>	<u>Subgroup</u>	<u>Description of Items</u>
112	-	Alcoholic beverages
121	-	Tobacco, unmanufactured, tobacco refuse
122	-	Tobacco, manufactured (whether or not containing tobacco substitutes)
525	-	Radioactive and associated materials
667	-	Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors
728	728.43	Tobacco processing machinery
897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases)

and goldsmiths' or silversmiths' wares  
(including set gems)

971 - Gold, non-monetary (excluding gold ores  
and concentrates)

(d) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;

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

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

(g) expenditures under a contract in respect of which the Association determines that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of a beneficiary of the Credit during the procurement or execution of such contract, without the Borrower having taken timely and appropriate action satisfactory to the Association to remedy the situation.

3. Notwithstanding the provisions of paragraph 2 above, withdrawals may be made by the Borrower in respect of Categories (2) and (3) of the table in paragraph 1 of this Schedule at any time when the Association shall be satisfied after an exchange of views with the Borrower as described in Section 3.03 of this Agreement, based on evidence satisfactory to the Association, that the requirements of Section 2.02 (d) of this Agreement have been fulfilled and, in addition:

(i) with respect to Category (2), the actions described in Part A of Schedule 2 to this Agreement have been taken in form and substance satisfactory to the Association; and

(ii) with respect to Category (3) the actions described in Part B of Schedule 2 to this Agreement have been taken in form and substance satisfactory to the Association.

## **SCHEDULE 2**

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

#### Part A: Second Federation Tranche

1. The Federation has carried out a pilot project for the Business Registration System in selected courts and has adopted an action plan for the full implementation of the Business Registration System.

2. The Federation has carried out a pilot project for the Pledge Registration System in selected courts and has adopted an action plan for the full implementation of the Pledge Registration System.
3. The Federation has established the Business Inspection System satisfactory to the Association setting forth, inter alia, the mandates of the inspectorates, the procedures for scheduling and coordinating inspections, and a code of conduct for inspectors.
4. The Federation has adopted the Law on Bankruptcy and Liquidation satisfactory to the Association.
5. A representative office of the Foreign Investment Promotion Agency has been adequately staffed and is operating in the Federation.
6. The Federation has reduced the average number of on-site inspector days per business per annum from 18 to 12 days or less. For the purpose of this paragraph, “on-site inspector days” means the days spent in the conduct of inspections of enterprises by all inspectors from the Market, Labor, Financial Police and Revenue Administration Inspectorates or their successors.
7. The Federation has reduced the average number of days required to complete the registration process for enterprises to commence operations from 80 to 30 days or less.
8. The Federation has reduced the number of steps required to register an enterprise to 7 or less.
9. The Federation has adopted amendments to the Law on Chambers of Commerce satisfactory to the Association.

Part B: Second Republika Srpska Tranche

1. Republika Srpska has carried out a pilot project for the Business Registration System in selected courts and has adopted an action plan for the full implementation of the Business Registration System.
2. Republika Srpska has carried out a pilot project for the Pledge Registration System in selected courts and has adopted an action plan for the full implementation of the Pledge Registration System.
3. Republika Srpska has established the Business Inspection System satisfactory to the Association setting forth, inter alia, the mandates of the inspectorates, the procedures for scheduling and coordinating inspections, and a code of conduct for inspectors.
4. Republika Srpska has adopted the Law on Bankruptcy and Liquidation satisfactory to the Association.
5. A representative office of the Foreign Investment Promotion Agency has been adequately staffed and is operating in Republika Srpska.
6. Republika Srpska has reduced the average number of on-site inspector days per business per annum from 28 to 15 days or less. For the purpose of this paragraph, “on-site inspector days”

means the days spent in the conduct of inspections of enterprises by all inspectors from the Market, Labor, Financial Police and Revenue Administration Inspectorates or their successors.

7. Republika Srpska has reduced the average number of days required to complete the registration process for enterprises to commence operations from 31 to 23 days or less.

8. Republika Srpska has reduced the number of steps required to register an enterprise to 7 or less.

9. Republic Srpska has adopted amendments to the Law on Chambers of Commerce satisfactory to the Association.

