

CONFORMED COPY

CREDIT NUMBER 2639 KG

Development Credit Agreement

(Privatization and Enterprise Sector Adjustment Credit)

between

KYRGYZ REPUBLIC

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated July 7, 1994

CREDIT NUMBER 2639 KG

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated July 7, 1994, between KYRGYZ REPUBLIC (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received a letter dated May 30, 1994, from the Borrower describing a program of actions, objectives and policies designed to reduce the role of the state in economic activity through privatization and to improve the enabling environment for private sector activity, achieve the structural adjustment of the Borrower's economy (hereinafter called the Program), declaring the Borrower's commitment to the execution of the Program, and requesting assistance from the Association in the financing of urgently needed imports required during such execution; 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 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, with the modifications thereof set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) Section 2.01, paragraph 9, shall be modified to read:

"'Project' means the imports and other activities that may be financed out of the proceeds of the Credit pursuant to the provisions of Schedule 1 to the Development Credit Agreement.";

(b) Section 9.06 (c) shall be modified to read:

"(c) 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, 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

(c) the last sentence of Section 3.02 is deleted.

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) "SPF" means the Borrower's State Property Fund;

(b) "ERRA" means the Borrower's Enterprise Reform and Resolution Agency; and

(c) "SITC" means the Standard International Trade Classification, Revision 3 (SITC, Rev. 3), published by the United Nations in Statistical Papers, Series M, No. 343 (1986).

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 forty-two million five hundred thousand Special Drawing Rights (SDR 42,500,000).

Section 2.02. The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1995 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 cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date or 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 payment 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) and (c) below, the Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each April 15 and October 15 commencing October 15, 2004 and ending April 15, 2029. Each installment to and including the installment payable on April 15, 2014 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 gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years; 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 terms of repayment of installments under paragraph (a) above by 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. If so requested by the Borrower, the Association may revise such modification 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.

(c) 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

Particular Covenants

Section 3.01. (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 3 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.

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 2 to this Agreement.

Section 3.03. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with consistently maintained sound accounting practices the expenditures financed out of the proceeds of the Credit.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles 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 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
- (iii) furnish to the Association such other information concerning said records and accounts and the audit thereof as the Association shall 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 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 audits 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.

ARTICLE IV

Additional Event of Suspension

Section 4.01. Pursuant to Section 6.02 (h) 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

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

Representatives of the Borrower; Addresses

Section 6.01. The First Vice Prime Minister 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:

First Vice Prime Minister
Government House
720 003, Bishkek
Kyrgyz Republic

For the Association:

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

Cable address:

Telex:

INDEVAS
Washington, D.C.

248423 (RCA)
82987 (FTCC)
64145 (WUI) or
197688 (TRT)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

KYRGYZ REPUBLIC

By /s/ A. Chukin

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ R. Cheetham

Acting Regional Vice President
Europe and Central Asia

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

1. Subject to the provisions set forth or referred to in this Schedule, the proceeds of the Credit may be withdrawn from the Credit Account for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods required during the execution of the Program and to be financed out of such proceeds.

2. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) expenditures for goods included in the following SITC groups or subgroups, or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Borrower:

| Group | Subgroup | Description of Items |
|-------|----------|---|
| 112 | -- | Alcoholic beverages |
| 121 | -- | Tobacco, unmanufactured, tobacco refuse |

| | | |
|--------------|--------------------|---|
| 122 | -- | Tobacco, manufactured (whether or not containing tobacco substitutes) |
| 525 | -- | Radioactive and associated materials |
| 667 | -- | Pearls, precious and semiprecious stones, unworked or worked |
| 718 | 718.1 | Nuclear reactors, and parts thereof, fuel elements (cartridges), non-irradiated for nuclear reactors |
| 728 Group | 728.43 Subgroup | Tobacco processing machinery Description of Items |
| 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, nonmonetary (excluding gold ores and concentrates) |

(b) expenditures in the currency of the Borrower or for goods supplied from the territory of the Borrower;

(c) payments made for expenditures prior to the date of this Agreement except that withdrawals in an aggregate amount not exceeding the equivalent of SDR 8,500,000 may be made on account of payments made for such expenditures before such date but after April 1, 1994;

(d) expenditures for goods procured under contracts costing less than \$5,000 equivalent;

(e) expenditures for goods supplied under a contract which any national or international financing institution or agency other than the Association shall have financed or agreed to finance; and

(f) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption.

3. Withdrawals for expenditures under contracts for the procurement of goods estimated to cost less than \$1,000,000 may be required by the Association upon the basis of statements of expenditure under such terms and conditions as the Association shall specify.

4. No withdrawal shall be made and no commitment shall be entered into to pay amounts to or on the order of the Borrower in respect of expenditures to be financed out of the proceeds of the Credit after the aggregate of the proceeds of the Credit withdrawn from the Credit Account and the total amount of such commitments shall have reached the equivalent of SDR 21,250,000, unless the Association shall be satisfied, after an exchange of views as described in Section 3.01 of this Agreement based on evidence satisfactory to the Association: (a) with the progress achieved by the Borrower in the carrying out of the Program; and (b) that the actions described in Schedule 3 to this Agreement have been taken.

5. If, after the exchange of views described in paragraph 4 above, the Association shall have given notice to the Borrower that the progress achieved and actions taken are not satisfactory and, within 90 days after such notice, the Borrower shall not have achieved progress and taken actions satisfactory to the Association, then the Association may, by notice to the Borrower, cancel the unwithdrawn amount of the Credit or any part thereof.

SCHEDULE 2

Procurement

1. Contracts for the procurement of goods estimated to cost the equivalent

of \$1,000,000 or more each shall be awarded through international competitive bidding in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines), subject to the following modifications:

(a) Paragraph 2.8 of the Guidelines is deleted and the following is substituted therefor:

"2.8 Notification and Advertising

The international community should be notified in a timely manner of the opportunity to bid. This will be done by advertising invitations to apply for inclusion in a bidder's invitation list, to apply for prequalification, or to bid; such advertisements should be placed in at least one newspaper of general circulation in the Borrower's country and, in addition, in at least one of the following forms:

- (i) a notice in the United Nations publication, Development Forum, Business Edition; or
- (ii) an advertisement in a newspaper, periodical or technical journal of wide international circulation; or
- (iii) a notice to local representatives of countries and territories referred to in the Guidelines, that are potential suppliers of the goods required."

(b) The following is added at the end of paragraph 2.21 of the Guidelines:

"As a further alternative, bidding documents may require the bidder to state the bid price in a single currency widely used in international trade and specified in the bidding documents."

(c) Paragraphs 2.55 and 2.56 of the Guidelines are deleted.

(d) For fixed-price contracts, the invitation to bid referred to in paragraph 2.13 of the Guidelines shall provide that, when contract award is delayed beyond the original bid validity period, the successful bidder's bid price will be increased for each week of delay by two predisclosed correction factors acceptable to the Association, one to be applied to all foreign currency components and the other to the local currency component of the bid price. Such an increase shall not be taken into account in the bid evaluation.

(e) In the procurement of goods in accordance with this paragraph 1, the Borrower shall use the relevant standard bidding documents issued by the Bank, with such modifications thereto as the Association shall have agreed to be necessary for the purposes of the Project. Where no relevant standard bidding documents have been issued by the Bank, the Borrower shall use bidding documents based on other internationally recognized standard forms agreed with the Association.

2. Contracts for the procurement of goods estimated to cost the equivalent of less than \$1,000,000 shall be awarded on the basis of standard commercial practices followed by public and private enterprises, respectively, acceptable to the Association.

3. Subject to the prior approval of the Association, commonly traded commodities maybe procured through organized international commodity markets or other channels of competitive procurement acceptable to the Association, in accordance with procedures acceptable to the Association.

4. With respect to each contract referred to in paragraphs 1 and 3 of this Schedule, the Borrower shall furnish to the Association, prior to the submission to the Association of the first application for withdrawal of funds from the Credit Account in respect of such contract, two conformed copies of such contract, together with the analysis of the respective bids and recommendations for award, a description of the advertising and tendering procedures followed and such other information as the Association shall reasonably request.

5. With respect to each contract referred to in paragraph 2 of this Schedule, the Borrower shall furnish to the Association, prior to the submission to the Association of the first application for withdrawal of funds from the Credit Account in respect thereof, such documentation and information as the Association may reasonably request to support withdrawal applications in respect of such contract.

6. The provisions of the preceding paragraph 5 of this Schedule shall not apply to contracts on account of which withdrawals from the Credit Account are to be made on the basis of statements of expenditure.

SCHEDULE 3

Actions Referred to in Paragraph 4 (b) of Schedule 1 to this Agreement

1. The Borrower has carried out at least 4 voucher auctions in at least 2 oblasts in respect of the sale of shares in previously privatized enterprises, through competitive methods covering a minimum of 10 enterprises at each auction.

2. SPF has carried out at least 3 auctions in at least 2 oblasts and invited interested parties to submit their privatization proposals for at least 70 enterprises still fully government-owned at the date of this Agreement.

3. SPF has prepared and submitted to the Association: (a) a report on the proportion of enterprises privatized through auctions and competitive bidding procedures; and (b) a plan for the future privatization of enterprises, including a timetable, for its implementation, acceptable to the Association.

4. ERRRA has implemented a hard payment system for all enterprises under its responsibility resulting in no further accumulation of inter-enterprise arrears and no increase of debt to the banking system and/or the Borrower.

5. ERRRA has completed viability assessments of at least 3 large loss-making enterprises under its responsibility and has taken a decision on the liquidation or restructuring program in respect of these enterprises under its responsibility.

6. The Borrower has taken all necessary measures on its part to reduce the coverage of its bilateral clearing arrangements with the view of phasing them out completely.

7. The Borrower has submitted to the Association for review a draft company law.

8. The Borrower has prepared and furnished to the Association a report on the progress made in the implementation of the legislative action plan for the improvement of the enabling environment for private sector activity, agreed upon with the Association, and on the legislative actions to be carried out by the Borrower during the next phase, acceptable to the Association.

9. The Borrower has implemented the action plan for demonopolization of wholesale trade and transport enterprises, as agreed upon with the Association.

10. The Borrower has continued to implement its policy of not imposing any compulsory purchase orders.

