

CONFORMED COPY

CREDIT NUMBER 1920 MAI

(Industrial and Trade Policy Adjustment Credit)

between

REPUBLIC OF MALAWI

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated September 16, 1988

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated September 16, 1988, between REPUBLIC OF MALAWI (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS: (A) the Association has received a letter, dated May 24, 1988, from the Borrower describing a program of actions, objectives and policies designed to achieve structural adjustment of the industry and trade sectors 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;

(B) the Borrower intends to request from Japan, financial support for the Program in the form of a loan from the Overseas Economic Cooperation Fund of Japan (hereinafter called OECF) in an amount equivalent to thirty million dollars (\$30,000,000) on the terms and conditions set forth in an agreement (the OECF Loan Agreement) to be entered into between the Borrower and OECF;

(C) the Borrower intends to obtain from the European

Development Fund (hereinafter called EDF) a grant (the EDF Grant) in an amount of twelve million five hundred thousand European Currency Units (ECU 12,500,000) in support of the Program, on the terms and conditions set forth in an agreement (the EDF Grant Agreement) to be entered into between the Borrower and EDF;

(D) the Borrower intends to obtain from the African Development Fund (hereinafter called ADF) a loan (the ADF Loan) in an amount of fifteen million Units of Account (FUA 15,000,000) in support of the Program, on the terms and conditions set forth in an agreement (the ADF Loan Agreement) to be entered into between the Borrower and ADF;

(E) the Borrower intends to obtain from the United States Agency for International Development (hereinafter called USAID) a grant (the USAID Grant) in an amount of up to twenty-five million dollars (\$25,000,000) in support of the Program, on the terms and conditions set forth in an agreement (the USAID Grant Agreement) to be entered into between the Borrower and USAID; and

(F) on the basis, inter alia, of the foregoing, the Association has decided to provide, in support of the Program, 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) "SITC" means 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);

(b) "MK" and "Malawi kwacha" mean the currency of the Borrower;

(c) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement; and

(d) "RBM" means the Reserve Bank of Malawi, the Borrower's Central Bank, established pursuant to the Reserve Bank of Malawi Act (Cap. 44:02 of the Laws of Malawi).

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 this Agreement, an amount in various currencies equivalent to fifty million six hundred thousand Special Drawing Rights (SDR 50,600,000).

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

(b) The Borrower shall, for the purposes of the Program, open and maintain in dollars a special account in a commercial bank in the name of RBM on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1990, 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 a 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 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 as of the next payment date in that year specified in Section 2.06 of this Agreement, except that the rate set as of June 30, 1988 shall be applied as of July 1, 1988.

(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 May 1 and November 1 of each year.

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each May 1 and November 1, commencing November 1, 1998, and ending May 1, 2028. Each installment to and including the installment payable on May 1, 2008, shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever:

- (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985-dollars for five (5) 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 their due consideration 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.

Section 2.09. (a) RBM is designated as representative of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

(b) Without limitation or restriction on the foregoing, the Borrower hereby entrusts RBM with responsibility for the preparation of withdrawal applications under the Credit and the collection of documents and other evidence to be furnished to the Association in support of such applications. Such withdrawal applications shall, to the extent practicable, be consolidated so as to apply to withdrawals of aggregate amounts of not less than \$50,000 equivalent.

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. In order to assist the Borrower to develop the credit guarantee scheme and the institutional and regulatory framework for the small-scale sector, the Borrower shall employ consultants whose qualifications, experience, and terms and conditions of employment shall be satisfactory to the Association. Such consultants shall be selected in accordance with the principles and procedures satisfactory to the Association on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by The World Bank as Executing Agency" published by the Bank in August 1981.

Section 3.04. (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

Remedies of the Association

Section 4.01. Pursuant to Section 6.02 (h) of the General Conditions, the following additional events are specified:

(a) an event has occurred which shall make it improbable that the Program, or a significant part thereof, will be carried out;

(b) (i) Subject to subparagraph (ii) of this paragraph:

(A) the right of the Borrower to withdraw the proceeds of any grant or loan made to the Borrower to finance the Program shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor; or

(B) any such loan shall have become due and payable prior to the agreed maturity thereof.

(ii) Subparagraph (i) of this paragraph shall not apply, if the Borrower establishes to the satisfaction of the Association, that:

(A) such suspension, cancellation or termination is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and

(B) adequate funds for the Program are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 4.02. Pursuant to Section 7.01 (d) of the General Conditions, the following additional event is specified, namely, that the event specified in subparagraph (b) (i) (B) of Section 4.01 of this Agreement shall occur, subject to the proviso of subparagraph (ii) of that paragraph.

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. Except as provided in Section 2.09 (a) of this Agreement, 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
P.O. Box 30049
Capital City
Lilongwe 3
Malawi

Cable address:

FINANCE
Lilongwe

Telex:

4407 MI

For the Association:

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

Cable address:

INDEVAS
Washington, D.C.

Telex:

440098 (ITT)
248423 (RCA) or
64145 (WUI)

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.

REPUBLIC OF MALAWI

By /s/ Overton S. Mkandawire
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Sven Sandstrom
Acting Regional Vice President
Africa

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

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

Category	Amount of Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Goods	50,420,000	100% of foreign expenditures
(2) Consultants' services	180,000	100%

TOTAL 50,600,000

2. 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 and services required during the execution of the Program and to be financed out of such proceeds.

3. For the purposes of this Schedule, the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower.

4. Notwithstanding the provisions of paragraphs 1 and 2 above, no withdrawals shall be made in respect of Category 1 in the table set forth in paragraph 1 of this Schedule for:

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

Group	Sub-group	Description of Items
112	-	Alcoholic beverages
121	-	Tobacco, unmanufactured, tobacco refuse
122	-	Tobacco, manufactured (whether or not containing tobacco substitutes)
525	-	Radioactive and associated materials
667	-	Pearls, precious and semi-precious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof, fuel elements (cartridges), non-irradiated for nuclear reactors
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)

(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 10,100,000 may be made on account of payments made for such expenditures before that date but after March 1, 1988;

(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;

(f) expenditures for goods intended for a military or para-military purpose or for luxury consumption; and

(g) expenditures for items included in any single SITC group or sub-group which exceeds, in the aggregate, the equivalent of \$25,000,000.

5. 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 allocated to Category (1) in the table set forth in paragraph 1 of this Schedule 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 25,210,000 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.

6. If, after the exchange of views described in paragraph 5 above, the Association shall have given notice to the Borrower that the progress achieved and actions taken are not satisfactory and, within ninety (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 allocated to Category (1) in the table set forth in paragraph 1 of this Schedule or any part thereof.

SCHEDULE 2

Procurement

1. Contracts for the procurement of goods, estimated to cost the equivalent of two million dollars (\$2,000,000) 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 1985 (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.

2. (a) Contracts for goods, estimated to cost the equivalent of less than two million dollars (\$2,000,000) each, to be procured by private entities and contractors shall be awarded on the basis of the normal procurement procedures of the purchaser of such goods.

(b) Contracts for goods to be procured by the Borrower, its political subdivisions or state-owned enterprises, estimated to cost the equivalent of less than two million dollars (\$2,000,000) each, may be awarded on the basis of the normal procurement procedures of the purchaser of such goods, and such procedures shall be satisfactory to the Association.

3. Contracts for commonly traded commodities may be awarded on the basis of price quotations available from organized international commodity markets.

4. With respect to each contract referred to in paragraph 1 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 contracts, two conformed copies of each 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 such 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 contracts.

6. Notwithstanding the provisions of paragraphs 4 and 5 of this Schedule, where payments under a contract are to be made out of the proceeds of the Special Account, the copies of such contracts or the documentation and the information to be furnished to the Association, pursuant to the provisions of paragraph 4 or paragraph 5 of this Schedule, as the case may be, shall be furnished to the Association as part of the evidence required under paragraph 4 of Schedule 4 to this Agreement.

7. The provisions of the preceding paragraphs 4, 5 and 6 shall not apply to contracts on account of which the Association has authorized withdrawals from the Credit Account on the basis of statements of expenditure. Such contracts shall be retained in accordance with Section 3.04 (c) (ii) of this Agreement.

SCHEDULE 3

Actions Referred to in Paragraph 5 (b)
of Schedule 1 to this Agreement

1. The Borrower has:

(a) removed the requirement of prior RBM foreign exchange

approval for the importation of:

- (i) the equivalent of a further fifty percent (50%) of spare parts and raw materials; and
- (ii) an appropriate number of intermediate finished goods, satisfactory to the Association; and

(b) adopted a plan, satisfactory to the Association, for the total elimination of prior RBM approval on all other imports.

2. The Borrower has:

(a) adopted budgetary measures to reduce the deficit for the fiscal year 1989/90 to a level acceptable to the Association; and

(b) prepared a rolling public investment program for the fiscal years 1989/90 through 1992/93, acceptable to the Association.

3. The Borrower has announced the subsequent phase of its tax-reform program, acceptable to the Association.

4. The Borrower has made revisions to the RBM Act and adopted a timetable, acceptable to the Association, for the revision of its Banking Act.

SCHEDULE 4

Special Account

1. For the purposes of this Schedule:

(a) the term "Eligible Expenditures" means expenditures in respect of the reasonable cost of goods and services required during the execution of the Program and to be financed out of the proceeds of the Credit, in accordance with the provisions of Schedule 1 to this Agreement; and

(b) the term "Authorized Allocation" means an amount equivalent to \$15,000,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Except as the Association shall otherwise agree, payments out of the Special Account shall be made exclusively for Eligible Expenditures in accordance with the provisions of this Schedule.

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

(a) On the basis of a request or requests by the Borrower for a deposit or deposits which add up to the aggregate amount of the Authorized Allocation, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.

(b) The Borrower shall furnish to the Association requests for replenishment of the Special Account at such intervals as the Association shall specify. On the basis of such requests, the Association shall withdraw from the Credit Account and deposit into the Special Account such amounts as shall be required to replenish the Special Account with amounts not exceeding the amount of payments made out of the Special Account for Eligible Expenditures. Each such deposit shall be withdrawn by the Association from the Credit Account in the respective equivalent amounts as shall have been justified by the evidence supporting the request for such deposit furnished pursuant to paragraph 4 of

this Schedule.

4. For each payment made by the Borrower out of the Special Account for which the Borrower requests replenishment pursuant to paragraph 3 (b) of this Schedule, the Borrower shall furnish to the Association, prior to or at the time of such request, such documents and other evidence as the Association shall reasonably request, showing that such payment was made for Eligible Expenditures.

5. (a) Notwithstanding the provisions of paragraph 3 of this Schedule, no further deposit into the Special Account shall be made by the Association when either of the following situations first arises:

- (i) the Association shall have determined that all further withdrawals can be made by the Borrower directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or
- (ii) the total unwithdrawn amount of the Credit, minus the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Program, shall be equal to the equivalent of twice the amount of the Authorized Allocation.

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

6. (a) If the Association shall have determined at any time that any payment out of the Special Account:

- (i) was made for any expenditure or in any amount not eligible pursuant to paragraph 2 of this Schedule; or
- (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association, deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. No further deposit by the Association into the Special Account shall be made until the Borrower has made such deposit or refund.

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

