

CONFORMED COPY

LOAN NUMBER 4639 UA

Loan Agreement

(Programmatic Adjustment Loan)

between

UKRAINE

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated September 20, 2001

LOAN NUMBER 4639 UA

LOAN AGREEMENT

AGREEMENT, dated September 20, 2001, between UKRAINE (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS (A) the Bank has received from the Borrower a letter, dated August 10, 2001, describing a program of actions, objectives and policies designed to achieve and sustain 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 Bank in support of the Program during the execution thereof;

(B) the Borrower has requested the Bank to support the execution of the Program through extension to the Borrower of a series of loans up to an amount of \$750,000,000 over the three year period of the Country Assistance Strategy approved by the Executive Directors of the Bank on September 12, 2000; and

(C) on the basis, inter alia, of the foregoing, the Bank has decided in support of the first phase of the Program to provide such assistance to the Borrower by making the Loan, 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 Loan and Guarantee Agreements for Single Currency Loans" of the Bank, dated May 30, 1995 (as amended through October 6, 1999), with the modifications set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) Section 2.01, paragraph 18, is modified to read:

"'Project' means the program, referred to in the Preamble to the Loan Agreement, in support of which the Loan is made.";

(b) Section 4.01 is modified to read:

"Except as the Bank and the Borrower shall otherwise agree, withdrawals from the Loan Account shall be made in the currency of the deposit account specified in Section 2.02 of the Loan Agreement.";

(c) Section 5.01 is modified to read:

"The Borrower shall be entitled to withdraw the proceeds of the Loan from the Loan Account in accordance with the provisions of the Loan Agreement and of these General Conditions";

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

(e) Section 9.07 (c) shall be modified to read:

"(c) Not later than six months before the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Bank, the Borrower shall prepare and furnish to the Bank a report, of such scope and in such detail as the Bank shall reasonably request, on the execution of the Program referred to in the Preamble to the Loan Agreement, the performance by the Borrower and the Bank of their respective obligations under the Loan Agreement and the accomplishment of the purposes of the Loan."; and

(f) Section 9.05 is deleted and Sections 9.06, 9.07 (as modified above), 9.08 and 9.09 are renumbered, respectively, Sections 9.05, 9.06, 9.07 and 9.08.

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) "Hryvnia" or "UAH" means the currency of the Borrower;

(c) "Naftogaz" means a public joint-stock company "Naftogaz Ukrainy" operating in the areas of crude oil and natural gas extraction and trading pursuant to its statute registered with the Cabinet of Ministers dated May 25, 1998 ; and

(d) "Oblenergo" means an Oblast level (regional) electricity distribution company.

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 two hundred fifty million dollars (\$250,000,000).

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

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

Account.

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

(d) No withdrawals shall be made from the Loan Account after the aggregate of the proceeds of the Loan withdrawn from the Loan Account shall have reached the equivalent of \$150,000,000, unless the Bank shall be satisfied, after an exchange of views as described in Section 3.01 of this Agreement based on evidence satisfactory to the Bank: (A) with the progress achieved by the Borrower in the carrying out of the Program; (B) that the macroeconomic policy framework of the Borrower is satisfactory, as measured on the basis of indicators agreed between the Borrower and the Bank; and (C) that the actions described in Schedule 3 to this Agreement have been taken.

If, after said exchange of views, the Bank shall have given notice to the Borrower that the progress achieved and action taken are not satisfactory, and within 90 days after such notice, the Borrower shall not have taken steps satisfactory to the Bank, in respect of (A), (B), and (C) above, then the Bank may, by notice to the Borrower, cancel the unwithdrawn amount of the Loan or any part thereof.

Section 2.03. The Closing Date shall be December 31, 2002, 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 fee in an amount equal to one percent (1%) of the amount of the Loan, on or promptly after the Effective Date. 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 said 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 US Dollars 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, 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 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 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 2 to this Agreement.

ARTICLE III

Particular Covenants

Section 3.01. (a) The Borrower and the Bank 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 Bank for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Bank shall reasonably request.

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Borrower shall exchange views with the Bank on any proposed action to be taken after the disbursement of the Loan 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 3 to this Agreement.

Section 3.02. Upon the Bank'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 Bank;

(b) furnish to the Bank as soon as available, but in any case not later than six months after the date of the Bank'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 Bank shall have reasonably requested; and

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

ARTICLE IV

Additional Event of Suspension

Section 4.01. Pursuant to Section 6.02 (p) 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

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 the Borrower responsible for finance 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
12/2 Hrushevsky Street
Kiev, 252008
Ukraine

Telex:

131450

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

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

UKRAINE

By /s/ Konstantin I. Hryshchenko

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Luca Barbone

Acting Regional Vice President
Europe and Central Asia

SCHEDULE 1

Excluded Expenditures

For purposes of Section 2.02 (c) of this Agreement, the proceeds of the Loan shall not be used to finance any of the following expenditures:

1. expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower;
2. 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 loan or a credit;
3. 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 Bank 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	718.7	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)

4. expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;

5. 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, and any other goods designated as environmentally hazardous by agreement between the Borrower and the Bank);

6. 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

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

SCHEDULE 2

Amortization Schedule

Date Payment Due	Payment of Principal (expressed in Dollars)*
April 15, 2007	5,635,000
October 15, 2007	5,780,000
April 15, 2008	5,930,000
October 15, 2008	6,080,000
April 15, 2009	6,235,000
October 15, 2009	6,395,000
April 15, 2010	6,560,000
October 15, 2010	6,730,000
April 15, 2011	6,900,000
October 15, 2011	7,080,000
April 15, 2012	7,260,000

October 15, 2012	7,445,000
April 15, 2013	7,635,000
October 15, 2013	7,835,000
April 15, 2014	8,035,000
October 15, 2014	8,240,000
April 15, 2015	8,450,000
October 15, 2015	8,670,000
April 15, 2016	8,890,000
October 15, 2016	9,120,000
April 15, 2017	9,355,000
October 15, 2017	9,590,000
April 15, 2018	9,840,000
October 15, 2018	10,090,000
April 15, 2019	10,350,000
October 15, 2019	10,615,000
April 15, 2020	10,885,000
October 15, 2020	11,165,000
April 15, 2021	11,455,000
October 15, 2021	11,750,000

* The figures in this column represent the amount in Dollars to be repaid, except as provided in Sections 4.04 (d) of the General Conditions.

SCHEDULE 3

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

1. The Borrower has continued to disallow non-transparent budget offsets in the preparation and adoption of the budget for 2002.
2. Regarding payments from the budget, the Borrower has: (i) stayed current on the payment of pensions since September 2000; (ii) reduced wage arrears by 50% as compared with January 1, 2000, level; (iii) reduced energy payment arrears by 60% as compared with January 1, 2000 level; and (iv) contained or reduced all other budget arrears (in real terms) compared with the levels of July 1, 2001.
3. The Borrower has taken steps to reduce electricity and gas payment arrears, by: (i) identifying large debtors jointly owing more than 50 percent of the total unpaid electricity and gas arrears; (ii) quantifying the debt of domestic customers to Naftogaz, and preparing a debt restructuring plan; (iii) increasing the wholesale electricity market cash collections from Oblenergos to 60% of current charges (measured over the last six months or longer ending in October 2001); and (iv) increasing Naftogaz cash collections for gas sold to domestic customers to 60% of current charges (measured over the last six months or longer ending in October 2001).
4. The Borrower has taken measures to maintain a favorable business environment, by continuing to implement: (i) a system of easier business entry secured through one-stop shop for new business registration; (ii) simplified licensing system based on single-license streamlined application procedure; and (iii) non-increasing or reduced number of business inspections compared to 2000 levels; all as evidenced by the survey results carried out following a methodology agreed between the Borrower and the Bank.
5. The Borrower has taken measures to transform the ownership or organizational structure in the agriculture sector, as evidenced by the issuance of land titles to at least 1.3 million individuals, giving them full ownership rights to a specific plot of land;
6. The Borrower has continued to make progress in the privatization of large industrial and energy sector enterprises, as evidenced by: (i) the satisfactory transparency of privatizations completed during January-September 2001 period, determined through evaluations by Privatization Advisory Group (PAG) in accordance with agreed transparency criteria; (ii) the submission to Parliament of a list of enterprises to be privatized during year 2002 that can reasonably be expected to generate the sale revenue envisaged in the budget 2002; and (iii) resume the process of privatizing energy distribution companies (Oblenergos) to strategic investors through the issuance of competitive tenders for the next batch of Oblenergos.
7. The Borrower has taken steps to secure continued improvements in budget transparency by: (i) evaluating the implementation of the formula-based determination of intergovernmental fiscal transfers promulgated in the Budget Law 2001 during the

period January-October 2001; and (ii) continuing to use the improved formula in determining intergovernmental fiscal transfers to the budgets of Autonomous Republic of Crimea, oblasts, cities of oblast subordination (or Republican subordination in Crimea) and rayons in the preparation and adoption of budget 2002.

8. To improve financial management of public resources, the Borrower has taken steps to secure satisfactory progress in the implementation of: (i) the single treasury account; and (ii) an action plan for improvement of financial accountability agreed with the Bank, on the basis of a country financial accountability assessment report discussed with the Borrower.

9. The Borrower has committed not to grant any tax exemptions through the decisions and orders of the Cabinet of Ministers.

10. In the context of pension system reform, the Borrower has: (i) transferred the pension determination function to Pension Fund in 11 oblasts; and (ii) made progress in creating a unified social insurance database by completing a tender for the production of social insurance IDs and issuing of the first 100,000 IDs.

11. The Borrower has approved: (i) a medium-term health sector reform strategy; (ii) a medium term education sector reform strategy; and (iii) an AIDS prevention program for 2001-2003.

12. The Borrower has continued to suspend the effectiveness of all legal acts granting professional privileges not justified on poverty and equity grounds in the preparation and adoption of the budget 2002.

