

CONFORMED COPY

CREDIT NUMBER 3452 MAI
CREDIT NUMBER 3452-1 MAI

Development Credit Agreement

(Third Fiscal Restructuring and Deregulation Credit)

between

REPUBLIC OF MALAWI

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated January 11, 2001

CREDIT NUMBER 3452 MAI
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DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated January 11, 2001, between REPUBLIC OF MALAWI (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received from the Borrower a letter dated November 16, 2000, describing a program of actions, objectives and policies designed to achieve structural adjustment of the Borrower's (hereinafter called the Program), declaring the Borrower's commitment to the execution of the Program, and requesting assistance from the Association in support of the Program during the execution thereof;

(B) the Borrower has carried out the measures and taken the actions described in Schedule 2 to this Agreement to the satisfaction of the Association and has maintained a macroeconomic policy framework satisfactory to the Association; and

(C) 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 available in one tranche 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 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) "Better Health in Africa Targets" means targets for per capita health public expenditures for Africa as defined by the World Health Organization;

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

(c) "FY" means the Borrower's fiscal year beginning on July 1 and ending on

June 30 of the following year;

(d) "IDA Reflows" means the amount of the allocation specified in Section 2.01 of this Agreement and made by the Association for the benefit of the Borrower under the Association's Fiscal Year 2001 allocations of IDA/R00-160 Reflows set forth in Resolution IDA of the Association's Board of Executive Directors;

(e) "Information Memorandum" means a profile of a public enterprise or company to be privatized, the primary purpose of which is to provide interested persons with comprehensive, accurate and up-to-date information on said public enterprise or company so as to enable the interested party to decide whether or not, and on what terms to bid;

(f) "Initial Financing" means an amount in various currencies equivalent to forty-three million one hundred thousand Special Drawing Rights (SDR 43,100,000) which forms part of the Credit;

(g) "LDP" means the Letter dated November 16, 2000 referred to in Preamble A to this Agreement;

(h) "MOF" means the Borrower's Ministry of Finance;

(i) "MPTC" means the Malawi Posts and Telecommunications Corporation, formerly established and operating under the laws of the Borrower;

(j) "NFRA" means the Borrower's National Food Reserve Agency, established pursuant to the NFRA Deed (as hereinafter defined);

(k) "NFRA Deed" means the deed dated June 18, 1999 establishing the NFRA, as amended to date;

(l) "PCC" means the Petroleum Control Commission, established and operating under the laws of the Borrower;

(m) "PER" means the Borrower's ongoing Public Expenditure Review;

(n) "Reserve Bank of Malawi" means the Borrower's central bank;

(o) "Starter Pack Program" means the program of distribution of free agricultural inputs (seeds and fertilizer) to small-holder farmers; and

(p) "Targeted Input Program" means the program of distribution of free agricultural inputs (seeds and fertilizer) to poor rural households.

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-three million five hundred thousand Special Drawing Rights (SDR 43,500,000), which consists of: (a) an amount in various currencies equivalent to forty-three million one hundred thousand Special Drawing Rights (SDR 43,100,000) representing the Initial Financing; and (b) an amount in various currencies equivalent to four hundred thousand Special Drawing Rights (SDR 400,000) representing the IDA Reflows.

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 Credit from the Credit Account in support of the Program.

(b) The Borrower shall open, prior to furnishing to the Association the first request for withdrawal from the Credit Account, 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.

Section 2.03. The Closing Date shall be June 30, 2002, 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 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 charges 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 April 15, 2011 and ending October 15, 2040. Each installment to and including the installment payable on October 15, 2020, 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 per capita gross national product (GNP), as determined by the Association, shall have exceeded for three 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 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 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 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. The Reserve Bank of Malawi 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.

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.

(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.

Section 3.02. 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 six 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 event is specified as an additional condition to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions, namely that the Borrower has issued the Information Memorandum for the privatization of Malawi Telecommunications Limited.

Section 5.02. 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. Except as provided in Section 2.09 (a) of this Agreement, the Minister of the Borrower at the time responsible for Finance 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:

Minister of Finance
Ministry of Finance
P. O. Box
Lilongwe, Malawi

Cable address:	Telex:	Facsimile:
FINANCE Lilongwe	44407 (MI)	265 789173

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 District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF MALAWI

By /s/ Anthony Kandiero

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Pamela Cox

Acting Regional Vice President
Africa

SCHEDULE 1

Excluded Expenditures

For 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:

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 credit or a loan;
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 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	718.7	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 Association);

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 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.

SCHEDULE 2

Actions Referred to in Recital (B) of the Preamble

1. Expenditure Rationalization

The Borrower shall have:

(a) on the basis of the ongoing PER, identified priority recurrent expenditures and protected their share in total recurrent expenditures in its 2000/2001 budget, as specified in paragraph 11 of the LDP;

(b) reduced allocations for boarding in Conventional Secondary Schools from 16% to 9% and relocated saved money to qualitative inputs, as specified in paragraph 11 of the LDP; and

(c) increased allocation for medicinal drugs to approximate Better Health in Africa Targets, as specified in paragraph 11 of the LDP.

2. Development Budget

The Borrower shall have:

(a) established a detailed project database within MOF, satisfactory to the Association, to also include aid-financed projects outside the development budget, as

specified in paragraph 13 of the LDP;

(b) for the Borrower's 2000/20001 budget, restricted the entry of new projects to high priority sectors on the basis of the project database, as specified in paragraph 13 of the LDP; and

(c) identified a prioritized list of projects, satisfactory to the Association, in its FY 2000/2001 development budget, as specified in paragraph 13 of the LDP.

3. Cost Recovery

The Borrower shall have:

(a) announced a cost recovery policy satisfactory to the Association for tertiary education as specified in paragraph 12 of the LDP; and

(b) introduced a cost recovery policy, satisfactory to the Association, including a schedule of prices to be charged for passports, visas, licenses, as specified in paragraph 12 of the LDP.

4. Fiscal Management

The Borrower shall have:

(a) issued a circular, satisfactory to the Association, requiring Controlling Officers to maintain an up-to-date commitment register, as specified in paragraph 14 of the LDP;

(b) announced a ten point plan to improve financial management and posted on MOF's Web site, selected items of the FY 2000/20001 budget, as specified in paragraph 15 of the LDP;

(c) commenced quarterly public reporting of: (i) balance sheets, and (ii) profit and loss accounts of at least the 5 largest parastatals, as specified in paragraph 15 of the LDP;

(d) taken the decision to separate its public finance management and public audit functions by enacting new legislation as specified in paragraph 16 of the LDP;

(e) approved and commenced implementation of the recommendations of the Phase I study which proposes decentralization of the Borrower's procurement process, as specified in paragraph 19 of the LDP; and

(f) operationalized the Malawi Revenue Authority as specified in paragraph 20 of the LDP.

5. Private Sector Development

The Borrower shall have:

(a) issued the Information Memorandum for the privatization of the Commercial Bank of Malawi as specified in paragraph 24 of the LDP;

(b) (i) legally completed the separation of the Posts and Telecommunications sections of the former MPTC; and (ii) registered 15 internet service providers as

specified in paragraph 23 of the LDP; and

(c) (i) made private sector imports of petroleum legal; and (ii) limited the role of PCC to that of a regulator of petroleum markets, as specified in paragraph 22 of the LDP.

6. Safety Net Strategy

The Borrower shall have:

(a) (i) approved a national safety net strategy, satisfactory to the Association; and (ii) established the institutional framework for the implementation of the strategy in accordance with paragraph 26 of the LDP;

(b) converted the Starter Pack Program into the Targeted Input Program and reduced the allocation for it in FY 2000/2001 budget, in accordance with paragraph 28 of the LDP; and

(c) (i) taken the decision to limit the maize stocks to be held by the NFRA to a maximum of 60,000 metric tons; and (ii) amended the NFRA Deed to restrict the NFRA to being a strategic grain reserve, exclusively involved in relief activities, as specified in paragraph 29 of the LDP.

