

Public Disclosure Authorized

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**CREDIT NUMBER 3723 YF**

# **Development Credit Agreement**

**(Privatization and Restructuring of Banks and  
Enterprises Technical Assistance Project)**

**between**

**SERBIA AND MONTENEGRO**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated April 17, 2003**

Public Disclosure Authorized



**CREDIT NUMBER 3723 YF**

**DEVELOPMENT CREDIT AGREEMENT**

AGREEMENT, dated April 17, 2003, between SERBIA AND MONTENEGRO (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project;

(B) the Borrower will make available to the Government of the Republic of Serbia, through the Part A Sub-credit Agreement (as defined hereinafter), the proceeds of the Credit, as provided in this Agreement; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement;

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) (the General Conditions), constitute an integral part of this Agreement.

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

(a) “Bank Resolution Framework” means the Borrower’s laws, regulations and programs, and agencies and institutions, related to bank rehabilitation, privatization and liquidation;

(b) “BRA” means the Bank Rehabilitation Agency of the Republic of Serbia, or any successor thereto;

(c) “BRA PMU” means a unit established within the BRA and referred to in Part B.2 of Schedule 2 to this Agreement, or any successor thereto;

(d) “Enterprise Privatization Framework” means the Republic of Serbia’s privatization laws and regulations, and related agencies and institutions;

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

(f) “Financial Monitoring Report” means each report prepared in accordance with Section 4.02 (a) of this Agreement;

(g) “MOEP” means the Republic of Serbia’s Ministry of Economy and Privatization, or any successor thereto;

(h) “Operational Manual” means a manual, satisfactory to the Association, adopted by the PA, and setting forth rules and procedures related to the implementation of Part A of the Project, as the same may be amended from time to time;

(i) “PA” means the Privatization Agency of the Republic of Serbia, or any successor thereto;

(j) “PA PMU” means a unit established within the PA and referred to in Part A.3 of Schedule 2 to this Agreement, or any successor thereto;

(k) “Part A Implementation Agreement” means the agreement to be entered between the Republic of Serbia and the PA, referred to in Section 3.02 (a) of this Agreement, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Part A Implementation Agreement;

(l) “Part A Sub-credit Agreement” means the agreement to be entered between the Borrower and the Republic of Serbia, referred to in Section 3.02 (a) of this Agreement, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Part A Sub-credit Agreement;

(m) “Project Preparation Advance” means the project preparation granted by the Association to the Borrower pursuant to the letter agreement signed on behalf of the Association on July 14, 2002, and on behalf of the Borrower on July 5, 2002;

(n) “Restructuring Program” means a SOE-specific program to be adopted by the PA in accordance with the Republic of Serbia Privatization Law, dated June 27, 2001 and Government of the Republic of Serbia Decree on the Procedure and Manner of Restructuring of Enterprises and Other Legal Entities, number 110-151/2002, dated January 15, 2002; and

(o) “Special Accounts” means the accounts referred in Section 2.02 (b) of this Agreement.

## **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 eight million four hundred thousand Special Drawing Rights (SDR 8,400,000).

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 for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods, services and incremental operating costs required for the Project and to be financed out of the proceeds of the Credit.

(b) The Borrower may, for the purposes of each Part A and Part B of the Project, open and maintain in Euro, separate special deposit accounts in a bank, acceptable to the Association, on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of each Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

(c) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advance withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be canceled.

Section 2.03. The Closing Date shall be April 30, 2006, or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty (60) days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or canceled; 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 May 1 and November 1 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Credit in semiannual installments payable on each May 1 and November 1 commencing May 1, 2013, and ending November 1, 2022. Each installment shall be five percent (5%) of such principal amount.

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

### **ARTICLE III**

#### **Execution of the Project**

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project, and, to this end, without any limitation or restriction upon any of its other obligations under this Agreement, shall carry out Part B of the Project through the BRA, and shall ensure that the Republic of Serbia carries out Part A of the Project through the PA, or other relevant agencies, all with due diligence and efficiency, and in conformity with appropriate administrative, financial, environmental and technical practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of Section 3.01 (a), and except as the Association and the Borrower shall otherwise agree, the Borrower and the Republic of Serbia, in order to ensure the implementation of the Project and the achievement of Project objectives, shall implement the Enterprise Privatization Framework and Bank Resolution Framework, as applicable, in a

timely and effective manner, in accordance with the terms and conditions, and under the procedures satisfactory to the Association.

Section 3.02. (a) Without limitation upon the provisions of Section 3.01 (a), and except as the Association and the Borrower shall otherwise agree, the Borrower, in order to ensure the implementation of Part A of the Project, shall: (i) make the proceeds of the Credit equivalent to SDR 6,130,000 available to the Republic of Serbia, under a sub-credit agreement (Part A Sub-credit Agreement), to be entered between the Borrower and the Republic of Serbia, under terms and conditions which shall have been approved by the Association; (ii) ensure that the Republic of Serbia ensures that the PA: (A) undertakes to implement Part A of the Project, under an implementation agreement (Part A Implementation Agreement), under terms and conditions which shall have been approved by the Association, including, the terms and conditions set forth in the Annex to Schedule 2; and (B) maintains, during the term of the Project, the PA PMU, with staff and resources necessary and appropriate for Part A of the Project.

(b) The Borrower shall exercise its rights under the Part A Sub-credit Agreement, and ensure that the Republic of Serbia exercises its rights under the Part A Implementation Agreement, in such manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Credit, and, except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate, repeal or waive the Part A Sub-credit Agreement, or any provision thereof, and shall ensure that the Republic of Serbia does not assign, amend, abrogate, repeal or waive the Part A Implementation Agreement, or any provision thereof.

Section 3.03. Without limitation upon the provisions of Section 3.01 (a), and except as the Association and the Borrower shall otherwise agree, the Borrower, in order to ensure the implementation of Part B of the Project, shall ensure that the BRA maintains, during the term of the Project, the BRA PMU, with staff and resources necessary and appropriate for Part B of the Project.

Section 3.04. The Borrower shall ensure that the BRA, the Republic of Serbia and PA:

(a) maintain policies and procedures adequate to enable them to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Borrower and Association, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, by March 31, 2004, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section

3.04, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Association, by April 30, 2004, or such later date as the Association shall request, the report referred to in paragraph (b) of this Section 3.04, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

Section 3.05. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan for the future operation of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with the Borrower on said plan.

Section 3.06. Except as the Association shall otherwise agree, procurement of the goods and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

## **ARTICLE IV**

### **Financial Covenants**

Section 4.01. (a) With respect to Part B of the Project, the Borrower, through the BRA, shall maintain a financial management system, including records and accounts, and prepare financial statements in a format acceptable to the Association, adequate to reflect its operations and financial condition, and to register separately the operations, resources and expenditures related to Part B of the Project.

(b) With respect to Part A of the Project, the Borrower shall ensure that the Republic of Serbia shall ensure that the PA maintains a financial management system, including records and accounts, and prepares financial statements in a format acceptable to the Association, adequate to reflect the PA operations and financial condition, and to register separately the operations, resources and expenditures related to Part A of the Project.



- (c) The Borrower shall ensure that the BRA and PA:
- (i) have their records, accounts and financial statements (balance sheets, statements of expenses and related statements) and the records and accounts for the Special Accounts for each fiscal year audited, in accordance with auditing standards acceptable to the Association, 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 (6) months after the end of each such year: (A) certified copies of the financial statements referred to in paragraphs (a) and (b) and sub-paragraph (c) (i) of this Section for such year as so audited; and (B) an opinion on such statements, records and accounts and 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 such records and accounts, and the audit thereof, and concerning said auditors, as the Association may from time to time reasonably request.

(d) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, the Borrower shall ensure that the BRA and PA:

- (i) maintain records and separate accounts reflecting such expenditures in accordance with paragraphs (a) and (b) of this Section;
- (ii) retain until at least one (1) 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 audit referred to in paragraph (c) 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.

Section 4.02. (a) Without limitation upon the reporting obligations set forth in Section 3.04 of this Agreement, the Borrower shall ensure that the BRA and PA prepare and furnish to the Association consolidated Financial Monitoring Reports, in form and substance satisfactory to the Association, which:

- (i) set forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Credit, and explaining variances between the actual and planned uses of such funds;
- (ii) describe physical progress in Project implementation, both cumulatively and for the period covered by said report, and explain variances between the actual and planned Project implementation; and
- (iii) set forth the status of procurement under the Project, as of the end of the period covered by said report.

(b) The first Financial Monitoring Report shall be furnished to the Association not later than forty-five (45) days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each Financial Monitoring Report shall be furnished to the Association not later than forty five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

## **ARTICLE V**

### **Remedies of the Association**

Section 5.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional events are specified:

(a) The Republic of Serbia shall have failed to perform any of its obligations under the Part A Sub-credit Agreement;

(b) The Republic of Serbia shall have failed to perform any of its obligations under the Part A Implementation Agreement; and

(c) the PA shall have failed to perform any of its obligations under the Part A Implementation Agreement.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following event is specified, namely that any event specified in Section 5.01 of this Agreement shall occur and shall continue for a period of sixty (60) days after notice thereof shall have been given by the Association to the Borrower.

## **ARTICLE VI**

### **Termination**

Section 6.01. 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 VII**

### **Representative of the Borrower; Addresses**

Section 7.01. The Minister of External Economic Relations is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of External Economic  
Relations  
Bul. Mihajila Pupina 2  
11070 Belgrade  
Serbia and Montenegro

Facsimile:



For the Association:

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

Cable address:	Telex:	Facsimile:
INDEVAS Washington, D.C.	248423 (MCI) or 64145 (MCI)	(202) 477-6391

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the city of Belgrade, Serbia and Montenegro, as of the day and year first above written.

SERBIA AND MONTENEGRO

By /s/ Branko Lukovac  
Authorized Representative

ASSOCIATION INTERNATIONAL DEVELOPMENT

By /s/ Rory O' Sullivan  
Authorized Representative

**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:

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Goods under Part A of the Project	40,000	100% of local expenditures and 95% of foreign expenditures
(2) Consultants' services, including auditing services		80% for services by firms, 70 % for services by individuals
(a) under Part A of of the Project	4,070,000	
(b) under Part B of the Project	2,180,000	
(3) Incremental operating costs 2004;		87% until January 1, 70% thereafter
(a) under Part A of the Project	430,000	
(b) under Part B of the Project	90,000	
(4) Refunding of Project Preparation Advance	<u>1,590,000</u>	Amount due pursuant to Section 2.02 (c) of this Agreement
TOTAL		<u>8,400,000</u>





2. For the purposes paragraph 1 of this Schedule:

(a) the term “incremental operating costs” means reasonable and necessary incremental expenditures, as approved by the Association on the basis of budgets acceptable to the Association, incurred by the BRA and PA with respect to Project implementation, management and monitoring, including PA staff salaries, office space, office supplies, utilities, publication of procurement notices, vehicle operation, travel and supervision costs, but excluding salaries of officials and employees of the Borrower and the Republic of Serbia; and

(b) the term “local expenditures” means expenditures in the currency of the Borrower for goods supplied from the territory of the Borrower; the term “foreign expenditures” means expenditures in the currency of any country other than that of the Borrower for goods supplied from the territory of any country other than that of the Borrower.

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

(a) payments made for expenditures prior to the date of this Agreement; and

(b) Categories (1), (2) (a) and (3) (a), unless the Part A Sub-credit Agreement and Part A Implementation Agreement have been executed, and all conditions to the effectiveness of such agreements have been fulfilled.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures for: (a) except for the first three (3) contracts, goods under contracts costing less than \$10,000 equivalent each; (b) services for individuals costing less than \$25,000 equivalent each, and firms costing less than \$50,000 equivalent each; and (c) all incremental operating costs, all under such terms and conditions as the Association shall specify by notice to the Borrower.

## **SCHEDULE 2**

### **Description of the Project**

The objective of the Project is to provide assistance to the Borrower and the Republic of Serbia to facilitate private sector-led economic growth by: (i) launching the restructuring and privatization process, and, when appropriate, bankruptcy proceedings with respect to some of the most problematic large socially owned enterprises (SOEs) in the Republic of Serbia; and (ii) supporting the implementation of a comprehensive banking sector restructuring strategy aimed at the creation of a more viable financial sector.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

#### Part A: Privatization through Restructuring of SOEs

1. Technical assistance to the Republic of Serbia, operating through the PA or other relevant agencies, to support privatization and restructuring, and, when appropriate, bankruptcy, within the Enterprise Privatization Framework, of a number of large SOEs, using case-by-case and pool privatization techniques, on the basis of transparent and competitive procedures and assistance of restructuring agents, described in the Annex to this Schedule 2, through the provision of services.
2. Technical assistance to strengthen the institutional capacity of the restructuring unit within the PA, through the provision of services and goods.
3. Provision of support to the PA PMU in the management, implementation and monitoring of Parts A.1 and A.2 of the Project, through the provision of services, including the audit of records, accounts and financial statements referred to in Section 4.01 (b) of this Agreement, goods, and financing of incremental operating costs.

#### Part B: Bank Restructuring Program

1. Technical assistance to the BRA with respect to bank liquidation, rehabilitation and privatization, within the Bank Resolution Framework, through the provision of services.
2. Provision of support to the BRA PMU in the management, implementation and monitoring of Part B.1 of the Project, through the provision of services, including the

audit of records, accounts and financial statements referred to in Section 4.01 (b) of this Agreement, and financing of incremental operating costs.

\* \* \*

The Project is expected to be completed by October 31, 2005.

## ANNEX TO SCHEDULE 2

1. Implementation Responsibility. The Borrower shall ensure that the Republic of Serbia ensures that: (a) the MOEP shall be responsible for the policy aspects of Part A of the Project; (b) the PA shall be responsible for day-to-day, operational and technical aspects of Part A of the Project; and (c) all governmental agencies and ministries of the Republic of Serbia shall assist, as necessary, in the implementation of Part A of the Project, all in accordance with the Enterprise Privatization Framework.

2. Enterprises to be Restructured and Privatized. The SOEs to be restructured and privatized or, if necessary, put into bankruptcy, under Part A.1 of the Project shall be mutually agreed upon by the Association and the Republic of Serbia (MOEP and PA), and shall be described in a list (the List), which may be modified from time to time, but only upon the explicit agreement of the Association.

3. Restructuring Agents. The PA shall engage consultants, such as financial advisers, restructuring and workout firms and investment banks, or other qualified agents (the restructuring agents) to assist the PA to prepare the SOEs on the List for restructuring and privatization, and to restructure and privatize, or, if necessary, initiate bankruptcy proceedings with respect to such SOEs, which shall include conducting the tenders, auctions, and asset sales for such SOEs, or parts thereof, on behalf of the PA. The restructuring agents shall be selected in accordance with the procurement rules set forth in Schedule 3 to this Agreement, and shall have appropriate international restructuring and privatization experience and qualifications, as well as knowledge of local conditions. The restructuring agents' retainer and professional fees may be financed under the Credit. The restructuring agents' success fees, if any, shall be paid out of sales proceed and shall not be financed under the Credit.

4. Restructuring and Privatization Procedures. The SOEs on the List shall be prepared for restructuring and privatization, and restructured and privatized, in accordance with the following procedures:

(a) When the PA receives a proposed Restructuring Program for each SOE, it shall make a decision with respect to such a Program within a timeframe provided under the Enterprise Privatization Framework, and shall inform the Association of its decision and reasons therefor.

(b) For each SOE to be restructured and privatized, the PA shall submit to the Association for review and approval the following documents, which shall be prepared with the assistance of the restructuring agents: (i) the Restructuring Program; (ii) a list of potential/proposed bidders who have expressed interest in bidding on all or parts of the SOE being restructured; (iii) the draft information memoranda, which shall

include proposed criteria for pre-selection of bidders, and proposed criteria for bid evaluation; (iv) a report prepared by the restructuring agent on the tender; and (v) auction privatization program for the SOEs, or parts thereof, that would be sold through the auction procedure.

(c) The PA shall compare and evaluate all bids, and select the winner based exclusively on established evaluation criteria, and price quotations with respect to auctions. Direct negotiations with respect to prices or other price related variables shall not be undertaken, except in cases where a properly conducted international tender results in only one qualified bid.

(d) In cases of direct negotiations described in paragraph 4 (b) of this Annex, a committee for direct negotiations, to be appointed by the MOEP, shall prepare a detailed protocol (minutes) of the negotiations with the winning bidder, which shall be signed by the head of the committee and the official representative of the winning bidder, and shall submit such a protocol to the MOEP, PA and Association, together with a proposed privatization contract, to be prepared by the PA, and any other documents requested by the MOEP and/or the Association, for review. Such a review shall be undertaken and comments, if any, provided by the MOEP and Association, within thirty (30) days.

5. Terms and Conditions of Restructuring and Privatization. The SOEs on the List shall be restructured and privatized in accordance with the following terms and conditions:

(a) at least seventy percent (70%) of the total capital of each SOE, or parts of the SOE, on the List shall be offered for sale to a strategic investor; for the purposes of this paragraph 5, the term “strategic investor” shall mean a legal entity that: (i) is not, directly or indirectly, owned or controlled by the managers or employees of the enterprise; and (ii) has the required experience, resources and reputation, as determined by the restructuring agent, and agreed upon by the MOEP and Association;

(b) the capital of the SOE to be transferred or made available, directly or indirectly, to the employees or managers of the enterprise shall not exceed fifteen percent (15%) of the total capital of the SOE, and shall not be so transferred until at least fifty percent (50%) of the total capital of the SOE has been sold to the strategic investor.

(c) The Republic of Serbia funds for payments to be made to redundant employees of the SOEs on the List, to be made under applicable laws of the Republic of Serbia, shall be transferred to an appropriate account in the Republic of Serbia’s Ministry of Labor and Economy, in a timely manner, and in accordance with the requirements of the relevant restructuring program.

6. Timetable. By March 31, 2003, the PA shall execute consultants' contracts with the restructuring agents with respect to three SOEs on the List. By August 31, 2003, the PA shall execute additional consultants' contracts with the restructuring agents with respect to three additional SOEs of the List. By January 31, 2004, the PA shall execute additional consultants' contracts with the restructuring agents with respect to four additional SOEs on the List. The restructuring agents shall be required to submit restructuring programs with respect to the first three SOEs on the List by September 30, 2003, with respect to three more SOEs on the List by February 28, 2004; and with respect of four additional SOEs on the List by August 31, 2004. The PA shall initiate bankruptcy proceedings with respect to those SOEs on the List, or parts thereof, which the restructuring agents advise cannot or should not be restructured and privatized, subject to the applicable legal and regulatory requirements.

### **SCHEDULE 3**

#### **Procurement and Consultants' Services**

##### Section I. Procurement of Goods

###### Part A: General

Goods shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines), and the provisions of the following Parts of this Section I.

###### Part B: International Competitive Bidding

Except as otherwise provided in Part C of this Section, goods shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

###### Part C: Other Procurement Procedures

###### 1. International Shopping

Goods estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$50,000 equivalent, may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

###### 2. National Shopping

Goods estimated to cost \$50,000 equivalent or less per contract, up to an aggregate amount not to exceed \$50,000 equivalent, may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

###### Part D: Review by the Association of Procurement Decisions

###### 1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods shall be undertaken in accordance with such

procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract procured in accordance with the international competitive bidding procedure referred to under Section I, Part B above, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

(b) With respect to the first three contracts and, thereafter, each contract to be procured in accordance with the shopping procedures referred to under Section I, Part C above, and estimated to cost the equivalent of \$10,000 or more, the following procedures shall apply:

- (i) prior to the execution of any contract under national shopping procedures, the Borrower shall provide to the Association a report on the comparison and evaluation of quotations received and a copy of the specifications and the draft contract; and
- (ii) the procedures set forth in paragraphs 2(f), 2(g) and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

Part A: General

Consultants' services shall be procured in accordance with the provisions of the Introduction, Section IV of, and Appendix 2 to the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Association in January 1997 and revised in September 1997, January 1999 and May 2002 (the Consultant Guidelines); and (b) the provisions of the following Parts of this Section II.

Part B: Quality- and Cost-based Selection

Except as otherwise provided in Part C of this Section, consultants' services for the Project shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality-and cost-based selection of consultants.



Part C: Other Procedures for the Selection of Consultants

1. Selection Based on Consultants' Qualifications

Services estimated to cost less than \$100,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

2. Least-cost Selection

Auditing services under Parts A.3 and B.2 of the Project may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

3. Individual Consultants

Services of individual consultants for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines shall be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

Part D: Review by the Association of the Selection of Consultants

1. Selection Planning

A plan for the selection of consultants, which shall include contract cost estimates, contract packaging, and applicable selection criteria and procedures, shall be furnished to the Association, for its review and approval, prior to the issuance to consultants of any requests for proposals. Such plan shall be updated every 6 months during the execution of the Project, and each such updating shall be furnished to the Association for its review and approval. Selection of all consultants' services shall be undertaken in accordance with such selection plan (as updated from time to time), as shall have been approved by the Association.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$50,000 or more, the procedures set forth in paragraphs 2, 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$25,000 or more, the report on the comparison of the qualifications and experience of candidates, and the terms of reference and terms of employment of the consultants shall be furnished to the Association for its

prior review and approval. The contract shall be awarded only after the said approval shall have been given.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

## **SCHEDULE 4**

### **Special Accounts**

1. For the purposes of this Schedule:

(a) the term “eligible Categories” means Categories (1), (2) (a) and (3) (a) set forth in the table in paragraph 1 of Schedule 1 to this Agreement in respect of Part A of the Project, and means Categories (2) (b) and (3) (b) set forth in the table in paragraph 1 of Schedule 1 to this Agreement in respect of Part B of the Project;

(b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of goods, services and incremental operating costs required for the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term “Authorized Allocation” means an amount equivalent to Euro 300,000 in respect of the Special Account for Part A of the Project, and an amount equivalent to Euro 100,000 in respect of the Special Account for Part B of the Project, to be withdrawn from the Credit Account and deposited into the Special Accounts pursuant to paragraph 3 (a) of this Schedule; provided, however, that, unless the Association shall otherwise agree, said Authorized Allocation shall be limited to an amount equivalent to Euro 150,000 in respect of the Special Account for Part A of the Project, and an amount equivalent to Euro 50,000 in respect of the Special Account for Part B of the Project, until: (i) in respect of the Special Account for Part A of the Project, the aggregate amount of withdrawals from the Credit Account of amounts allocated to Categories (1), (2) (a) and (3) (a), plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Part A of the Project shall be equal to or exceed the equivalent of SDR 340,000; and (ii) in respect of the Special Account for Part B of the Project, the aggregate amount of withdrawals from the Credit Account of amounts allocated to Categories (2) (b) and (3) (b), plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Part B of the Project shall be equal to or exceed the equivalent of SDR 110,000.

2. Payments out of the respective Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Association has received evidence satisfactory to it that the respective Special Account has been duly opened, withdrawals of the Authorized Allocation and

subsequent withdrawals to replenish the respective Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the respective Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the respective Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the respective Special Account, the Borrower shall furnish to the Association requests for deposits into the respective Special Account at such intervals as the Association shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the respective Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the respective Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the respective Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Association shall not be required to make further deposits into any Special Account:

(a) if, at any time, the Association shall have determined that all further withdrawals should 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;

(b) if the Borrower shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b)(ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Accounts;

(c) if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Credit allocated to eligible Categories for the respective Special Account, minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions in respect of the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Categories 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 respective 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 any Special Account: (i) was made for an expenditure or in an 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: (A) provide such additional evidence as the Association may request; or (B) deposit into the respective 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. Unless the Association shall otherwise agree, no further deposit by the Association into any Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in any 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.

(c) The Borrower may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the Special Accounts.

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.