

CONFORMED COPY

CREDIT NUMBER 3567 MAG

Development Credit Agreement
(Second Private Sector Development Project)

between

REPUBLIC OF MADAGASCAR

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated October 5, 2001

CREDIT NUMBER 3567 MAG

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated October 5, 2001, between REPUBLIC OF MADAGASCAR (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS 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; 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 9, 1999), with the modifications set forth below (the General Conditions), constitute an integral part of this Agreement:

(a) A new paragraph (12) is added to Section 2.01 to read as set forth below, and the existing paragraphs (12) through (14) of said Section are accordingly renumbered as paragraphs (13) through (15):

"12. 'Participating Country' means any country that the Association determines meets the requirements set forth in Section 11 of Resolution No. 194 of the Board of Governors of the Association, adopted on April 8, 1999; and 'Participating Countries' means, collectively, all such countries." ; and

(b) The second sentence of Section 5.01 is modified to read:

"Except as the Borrower and the Association shall otherwise agree, no withdrawals shall be made: (a) on account of expenditures in the territories of any country which is not a Participating Country or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Association, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

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) "ACM" means Aviation Civile de Madagascar, the Borrower's civil aviation regulatory agency, established and operating under the laws of the Borrower;

(b) "Administrative, Accounting and Financial Manual" means the Borrower's Administrative, Accounting and Financial Manual, dated September 2000, giving details of administrative, accounting and financial procedures, and procurement and disbursement arrangements, as shall have been agreed with the Association for purposes of the implementation of the Project, as same may be amended from time to time, and such term includes any schedules to the Administrative, Accounting and Financial Manual;

(c) "CFCE" means Centre de Facilitation pour la Création d'Entreprises, a Center for the Facilitation of Enterprise Creation, established and operating under the laws of the Borrower;

(d) "CNaPS" means Caisse Nationale de Prévoyance Sociale, the Borrower's National Social Security Fund, established and operating under the laws of the Borrower;

(e) "Eligible Categories" means Categories (1) through (6) set forth in the table in Part A.1 of Schedule 1 to this Agreement;

(f) "Eligible Expenditures" means expenditures in respect of the reasonable cost of goods and services 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;

(g) "FPP" means Fonds de Portage et de Privatisation, a privatization trust fund established and existing under the Privatization Law for the purpose of establishing a share warehousing scheme to hold minority shares in privatized public enterprises pending their sale to employees of privatized public enterprises, members of the public, local enterprises and institutional investors;

(h) "MDSPP" means Ministère du Développement du Secteur Privé et de la Privatisation, the Borrower's Ministry of Private Sector Development and Privatization;

(i) "OMERT" means Office Malgache pour l'Etude et la Régulation des Télécommunications, the Borrower's regulatory body for the telecommunications sector, established and operating under the laws of the Borrower;

(j) "OMH" means Office Malgache des Hydrocarbures, the Borrower's regulatory body for the energy sector established and existing under the laws of the Borrower;

(k) "OMPE" means Office des Micros et Petites Entreprises, an office of the Borrower established and existing under the laws of the Borrower to be responsible for the promotion of micro and small enterprises;

(l) "PASERP" means Programme d'Action Sociale et Economique pour la Réinsertion Professionnelle, a retraining and redeployment scheme established under the laws of the Borrower for the benefit of employees adversely affected by the

Privatization Program;

(m) "Privatization Committee" means the privatization committee, established under the Privatization Law to be responsible for the Privatization Program (as hereinafter defined);

(n) "Privatization Law" means the Borrower's Law No. 96-011, dated August 13, 1996, as amended by Law No. 98-014, dated November 14, 1998, defining the Privatization Program and defining the rules governing such program;

(o) "Privatization Program" means the Borrower's privatization program which is the subject matter of the Privatization Law;

(p) "Project Account" means the Project Account referred to in Section 3.04 (a) of this Agreement;

(q) "Project Implementation Manual" means the Project Implementation Manual, dated August 15, 1997, adopted by the Borrower, and giving details of procurement and disbursement arrangements, performance indicators and other administrative, financial and organizational arrangements, as shall have been agreed with the Association for purposes of the implementation of privatization activities under the Privatization Program, as same may be amended from time to time, and such term includes any schedules to the Project Implementation Manual;

(r) "Project Management Report" means each report prepared in accordance with Section 4.02 of this Agreement;

(s) "SOLIMA" means Solitany Malagasy, the Borrower's national oil company established and existing under the laws of the Borrower;

(t) "Special Account" means the account referred to in Part B of Schedule 1 to this Agreement;

(u) "STP" means Secrétariat Technique à la Privatisation, the Borrower's Technical Secretariat for Privatization established under the Privatization Law (as hereinafter defined) to be responsible for the day-to-day implementation of the Privatization Program; and

(v) "UCP" means Unité de Coordination du Projet, the Project Coordinating Unit referred to in paragraph 1 (b) of Schedule 4 to 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 the Development Credit Agreement, an amount in various currencies equivalent to nineteen million Special Drawing Rights (SDR 19,000,000).

Section 2.02. The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit.

Section 2.03. The Closing Date shall be June 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 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 January 15 and July 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 January 15 and July 15 commencing January 15, 2012 and ending July 15, 2041. Each installment to and including the installment payable on July 15, 2021 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 them 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.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, shall carry out the Project through STP with due diligence and efficiency and in conformity with appropriate administrative, technical and financial practices, and with due regard to environmental and ecological considerations, and provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section, and except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement.

Section 3.02. Except as the Association shall otherwise agree, procurement of

the goods, works 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.

Section 3.03. 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 designed to ensure the continued achievement of the objectives of the Project; and

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

Section 3.04. Without limitation upon its obligations under Section 3.01 of this Agreement, the Borrower shall

(a) maintain, in a commercial bank and on terms and conditions satisfactory to the Association, an advance account in the currency of the Borrower (hereinafter referred to as the Project Account), to be operated and maintained by STP, into which it shall deposit from time to time its local counterpart contribution to the cost of the Project;

(b) deposit into the Project Account an initial advance equivalent to \$200,000, and thereafter replenish the Project Account on a quarterly basis, or whenever the balance thereof equals not more than one third of the amount of the initial deposit, whichever occurs first; and

(c) ensure that funds deposited into the Project Account shall be used only for the purposes of defraying the cost of expenditures incurred in the execution of the Project which are not financed out of the proceeds of the Credit.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained a financial management system, including records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of the Project of the departments or agencies of the Borrower responsible for carrying out the Project or any part thereof.

(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 copies of the financial statements referred to in paragraph (a) of this Section, for such year as so audited; and (B) an opinion on such statements and reports of such audit, by said auditors, of such scope and in such detail as the Association shall have reasonably requested, including as part of the information to be provided in each such report, a management letter concerning the Borrower's internal controls, 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 Project Management Reports or 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 audit 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 Project Management Reports or 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 provisions of Section 4.01 of this Agreement, the Borrower shall carry out a time-bound action plan acceptable to the Association for the strengthening of its financial management system for the Project in order to enable the Borrower, not later than December 31, 2002, or such later date as the Association shall agree, to prepare quarterly Project management reports, acceptable to the Association, each of which:

(i) (A) sets forth actual sources and applications of funds for the Project, both cumulatively and for the period covered by said report, and projected sources and applications of funds for the Project for the six-month period following the period covered by said report, and (B) shows separately expenditures financed out of the proceeds of the Credit during the period covered by said report and expenditures proposed to be financed out of the proceeds of the Credit during the six-month period following the period covered by said report;

(ii) (A) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and (B) explains variances between the actual and previously forecast implementation targets; and

(iii) sets forth the status of procurement under the Project and expenditures under contracts financed out of the proceeds of the Credit, as at the end of the period covered by said report.

(b) Upon the completion of the action plan referred to in paragraph (a) of this Section, the Borrower shall prepare, in accordance with guidelines acceptable to the Association, and furnish to the Association not later than 45 days after the end of each calendar quarter a Project Management Report for such period.

ARTICLE V

Remedies of the Association

Section 5.01. 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 Privatization Program, or a significant part thereof, will be carried out;

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) the Project Account has been duly opened, and the amount of the initial advance deposited therein in accordance with Section 3.04 (a) of this Agreement;

(b) the Borrower has appointed the auditors referred to in Section 4.01 (b) of this Agreement, under terms, conditions and terms of reference acceptable to the Association, and in accordance with the provisions of Section II of Schedule 3 to this

Agreement;

(c) a financial management and accounting system, acceptable to the Association, has been established by STP and made operational;

(d) the Project Implementation Manual and Administrative, Accounting and Financial Manual have been duly updated and revised to take account of the scope and specific requirements of the Project;

(e) the project coordinator, internal auditor and assistant, procurement advisor, chief accountant and accountant, referred to in paragraph 3 of Schedule 4 to this Agreement, have been duly recruited under terms, conditions and terms of reference acceptable to the Association, and in accordance with the provisions of Section II of Schedule 3 to this Agreement; and

(f) the Borrower has established operational guidelines acceptable to the Association governing the divestiture process, and giving details of the organizational structure of STP and functional responsibilities thereunder.

Section 6.02 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.

Section 6.03. The obligations of the Borrower under Article IV of this Agreement shall cease and determine on the date on which the Development Credit Agreement shall terminate or on the date fifteen years after the date of this Agreement, whichever shall be the earlier.

ARTICLE VII

Representative of the Borrower; Addresses

Section 7.01. 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 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance and Economy
BP 121
Antananarivo, 101
Madagascar

Cable address:	Telex:	Facsimile:
MINFIN Antananarivo	22489	(261-20) 2222920 (261-20) 2234530

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 Antananarivo, Madagascar, as of the day and year first above written.

REPUBLIC OF MADAGASCAR

By /s/ Tantely Gabrio Andrianarivo

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Hafez Ghanem

Acting Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

A. General

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 so to be financed in each Category:

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Works	1,220,000	100% of foreign expenditures and 80% of local expenditures
(2) Goods	3,300,000	100% of foreign expenditures and 80% of local expenditures
(3) Consultants' services and audits	10,110,000	100% of foreign expenditures and 83% of local expenditures
(4) Training and study tours	1,410,000	100%
(5) Retraining Fund under Part B.4 of the Project	1,430,000	100%
(6) Operating costs	1,230,000	90%
(7) Unallocated	300,000	
TOTAL	19,000,000	

2. For the purposes of this Schedule:

(a) 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;

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower;

(c) the term "retraining fund" means expenditures incurred under the PASERP on account of services in support of redeployment of employees affected under the Privatization Program, including training, placement services and aptitude tests; and

(d) the term "operating costs" means incremental expenditures incurred under the Project on account of salaries and allowances of local contractual staff; travel costs and allowances; operation and maintenance of vehicles and equipment; banking charges; and office rental, supplies and utilities.

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

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

(b) in respect of payments under category (4) of the table in paragraph 1 above, involving overseas training or study tours in excess of three months' duration or training or study tours under contracts in excess of \$100,000, unless the prior approval of the Association has been sought and obtained; or

(c) in respect of payments under category (5) of the table in paragraph 1 above, except in accordance with rules and procedures acceptable to the Association governing the utilization of the retraining fund.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures for: (i) goods and works under contracts not exceeding \$100,000 equivalent; (ii) consultants services under contracts not exceeding \$100,000 equivalent, in the case of consulting firms, and \$50,000, in the case of individual consultants; (iii) training and study tours (other than overseas training and study tours in excess of three months' duration) under contracts not exceeding \$100,000 equivalent; and (iv) operating costs, under such terms and conditions as the Association shall specify by notice to the Borrower.

B. Special Account

1. The Borrower shall, for the purposes of the Project, open and maintain in dollars a special deposit account in a commercial bank on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment.

2. After the Association has received evidence satisfactory to it that the Special Account has been opened, withdrawals from the Credit Account of amounts to be deposited into the Special Account shall be made as follows:

(a) until the Association shall have received: (i) the first Project Management Report referred to in Section 4.02 (b) of this Agreement, and (ii) a request from the Borrower for withdrawal on the basis of Project Management Reports, withdrawals shall be made in accordance with the provisions of Annex A to this Schedule 1; and

(b) upon receipt by the Association of a Project Management Report pursuant to Section 4.02 (b) of this Agreement, accompanied by a request from the Borrower for withdrawal on the basis of Project Management Reports, all further withdrawals shall be made in accordance with the provisions of Annex B to this Schedule 1.

3. Payments out of the Special Account shall be made exclusively for Eligible Expenditures. For each payment made by the Borrower out of the 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.

4. Notwithstanding the provisions of Part B.2 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

(a) if the Association determines at any time that any Project Management Report does not adequately provide the information required pursuant to Section 4.02 of this Agreement;

(b) if the Association determines at any time that all further withdrawals should be made by the Borrower directly from the Credit Account; or

(c) 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: (A) the records and accounts for the Special Account, or (B) the records and accounts reflecting expenditures with respect to which withdrawals were made on the basis of Project Management Reports.

5. The Association shall not be required to make further deposits into the Special Account in accordance with the provisions of Part B.2 of this Schedule, 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 Section 6.02 of the General Conditions. Upon such notification, the Association shall determine, in its sole discretion, whether further deposits into the Special Account may be made and what procedures should be followed for making such deposits, and shall notify the Borrower of its determination.

6. (a) If the Association determines at any time that any payment out of the Special Account was made for an expenditure which is not an Eligible Expenditure, or was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association, provide such additional evidence as the Association may request, or 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. Unless the Association shall otherwise agree, no further deposit by the Association into the 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 determines at any time that any amount outstanding in the Special Account will not be required to cover payments for Eligible Expenditures during the six-month period following such determination, 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 Account.

(d) Refunds to the Association made pursuant to subparagraph (a), (b) or (c) of this paragraph 6 shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the provisions of the Development Credit Agreement.

Annex A to SCHEDULE 1

Operation of Special Account When Withdrawals Are Not Made On the Basis of Project Management Reports

1. For the purposes of this Annex, the term "Authorized Allocation" means an amount equivalent to \$1,500,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 2 of this Annex, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$750,000 until the aggregate amount of withdrawals from the Credit Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of SDR 1,750,000.

2. Withdrawals of the Special Account's Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

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

(b) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposit into the Special Account at such intervals as the Association shall specify. 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 Part B.3 of Schedule 1 to this Agreement 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 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 Special

Account for Eligible Expenditures. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account under one or more of the Special Account's Eligible Categories.

3. The Association shall not be required to make further deposits into the Special Account, once the total unwithdrawn amount of the Credit minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions, shall equal the equivalent of twice the amount of the Special Account's Authorized Allocation. 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.

Annex B to SCHEDULE 1

Operation of Special Account When Withdrawals Are Made On the Basis of Project Management Reports

1. Except as the Association may otherwise specify by notice to the Borrower, all withdrawals from the Credit Account shall be deposited by the Association into the Special Account in accordance with the provisions of Schedule 1 to this Agreement. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account under one or more of the Special Account's Eligible Categories.

2. Each application for withdrawal from the Credit Account for deposit into the Special Account shall be supported by a Project Management Report.

3. Upon receipt of each application for withdrawal of an amount of the Credit, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account an amount equal to the lesser of: (a) the amount so requested; and (b) the amount which the Association has determined, based on the Project Management Report accompanying said application, is required to be deposited in order to finance Eligible Expenditures during the six-month period following the date of such report; provided, however, that the amount so deposited, when added to the amount indicated by said Project Management Report to be remaining in the Special Account, shall not exceed the equivalent of \$4,000,000.

SCHEDULE 2

Description of the Project

The objectives of the Project is to assist the Borrower to improve access, reliability and affordability of key utilities, through completion of the divestiture program of key state-owned enterprises, and capacity building initiatives to strengthen the capacity of autonomous regulators and privatization agencies, and facilitate entry of new operators in the deregulated sectors.

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: Regulatory Reforms

1. Provision of support and assistance to build the capacity of regulators in the energy, air transport, telecommunications and financial sectors, including but not limited to:

- (a) in the case of OMH,
 - (i) establishment of twinning arrangements to provide assistance to develop and implement award licensing procedures, and monitor quality and safety standards,
 - (ii) provision of legal and technical advisory services as needed to:
 - (A) carry out an environmental baseline audit to identify pre-existing environmental problems encountered prior to the privatization of SOLIMA in order to assess environmental impact, identify risk sharing arrangements, and propose a remedial action plan and risk mitigating measures; (B) monitor compliance with the

resettlement action plan for squatters on the oil pipeline in Tamatave; and (C) develop environmental regulations, and monitor the application of environmental standards and regulations; and

(iii) provision of equipment, and civil works construction, for the establishment of a laboratory to measure and monitor compliance with environmental standards;

(b) in the case of OMERT: (i) provision of training in the areas of price regulation, interconnection, universal service, competition, licensing, dispute settlement and other areas pertaining to regulation of the sector; (ii) establishment of a frequency management system; and (iii) establishment of a rural telecommunications strategy;

(c) in the case of ACM, provision of technical advisory services and material support to: (i) facilitate a public information campaign to promote reform of its regulatory framework; and (ii) develop an information management system to enable ACM to monitor sector operations and information in a timely and reliable manner, and adopt preventive measures as necessary;

(d) in the case of the financial sector, provision of technical advisory services, training and study tour programs, and other material support, to establish a regulatory framework governing the insurance sector, strengthen capacity to control and supervise the insurance sector, and undertake reform of the CNaPS; and

(e) in the case of CFCE, provision of technical advisory services to strengthen its capacity to streamline business procedures pertaining to the creation of companies and, in so doing, facilitate enterprise registration and reduce the transaction costs of entry in the private sector.

Part B: Implementation and Transaction Support to STP

1. Provision of technical advisory services to streamline the privatization process, review institutional arrangements and procedures, strengthen the in-house capacity of STP and the relevant environmental agency to efficiently manage the environmental screening and audit process, and monitor compliance with environmental guidelines and performance indicators, and strengthen the in-house capacity of PASERP in view of the extension of its activities.

2. Provision of technical advisory services to: (a) strengthen the in-house capacity of the FPP, (b) monitor compliance with basic rules governing FPP, and (c) implement an intensive information campaign to promote consultations and communications in the privatization process.

3. Provision of legal and other technical advisory services to facilitate the completion of the privatization program, including provision of legal advisory services to address issues of ownership and transfer of title, and carrying out of environmental audits of environmentally sensitive companies being privatized.

4. Provision of financial support to the retraining fund established under the PASERP to finance the training and redeployment of employees adversely affected under the Privatization Program.

Part C: Support for New Initiatives of the Private Sector

1. Provision of technical advisory services and material support to promote the growth of micro and small enterprises through the establishment of OMPE and the maintenance of its operations.

2. Provision of technical advisory services and material assistance to support development and implementation of pilot projects in priority sectors targeted by the Borrower and considered as potential sources of growth.

* * *

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

SCHEDULE 3

Procurement and Consultants' Services

Section I. Procurement of Good and Works

Part A: General

1. Goods and works shall be procured in accordance with (a) 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, subject to the modifications thereto set forth in paragraph 2 of this Part A (the Guidelines), and (b) the provisions of the following Parts of this Section I.

2. In paragraphs 1.6 and 1.8 of the Guidelines, the references to "Bank member countries" and "member country" shall be deemed to be references, respectively, to "Participating Countries" and "Participating Country".

Part B: International Competitive Bidding

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

2. The following provisions shall apply to goods and works to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(a) Grouping of contracts

To the extent practicable, contracts for goods and works shall be grouped in bid packages estimated to cost, respectively, \$100,000 and \$200,000 equivalent or more each.

(b) Preference for domestically manufactured goods and domestic contractors

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower and works to be carried out by domestic contractors.

Part C: Other Procurement Procedures

1. National Competitive Bidding

Office furniture and supplies estimated to cost less than \$100,000 equivalent per contract, up to an aggregate amount not to exceed \$500,000 equivalent, and works estimated to cost less than \$200,000 equivalent per contract, up to an aggregate amount not to exceed \$500,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines; provided, however, that: (i) any bidder shall be given adequate response time (four weeks) for preparation and submission of bids; (ii) bid evaluation and bidder qualification criteria shall clearly be specified in bidding documents and not applied arbitrarily; (iii) eligible firms shall not be precluded from participation; (iv) no preference margin shall be granted to domestic contractors and suppliers; (v) the award shall be made to the lowest evaluated bidder in accordance with pre-determined and transparent methods; and (vi) bid evaluation reports shall clearly state the reasons for rejection of any non-responsive bid.

2. National Shopping

Goods estimated to cost less than \$30,000 equivalent per contract, up to an aggregate amount not to exceed \$100,000 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 and works 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

With respect to each contract for goods and works estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 2 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

1. Consultants' services shall be procured in accordance with (a) the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Association in January 1997 and revised in September 1997 and January 1999, subject to the modifications thereto set forth in paragraph 2 of this Part A (the Consultant Guidelines), and (b) the provisions of the following Parts of this Section II.

2. In paragraph 1.10 of the Consultant Guidelines, the references to "Bank member countries" and "member country" shall be deemed to be references, respectively, to "Participating Countries" and "Participating Country".

Part B: Quality- and Cost-based Selection

1. Except as otherwise provided in Part C of this Section, consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provisions shall apply to consultants' services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph. The short list of consultants for services estimated to cost less than \$50,000 equivalent per contract may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Guidelines.

Part C: Other Procedures for the Selection of Consultants

1. Least-cost Selection

Services for standard financial audits under the Project estimated to cost less than \$100,000 equivalent per contract, up to an aggregate amount not to exceed \$400,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

2. Selection Based on Consultants' Qualifications

Services of consultants for training and other minor assignments under the Project estimated to cost less than \$100,000 equivalent per contract, up to an aggregate amount not to exceed \$1,000,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

3. Individual Consultants

Services for small studies, short-term assignments and other 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

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under 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 Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection 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 for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$50,000 or more, but less than the equivalent of \$100,000, the procedures set forth in paragraphs 1, 2 (other than the second subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(c) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, and the higher level staff of STP, the qualifications, experience, 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

Implementation Program

1. (a) The Borrower shall maintain a Privatization Committee, whose mandate, terms of reference and composition shall be acceptable to the Association, to be responsible for overall coordination and general oversight of the Privatization Program.

(b) Subject to the role and functions of the Privatization Committee, the Borrower shall establish and maintain a Project Coordination Unit (UCP), to be chaired by MDSPP, to be responsible for overall coordination of the Project and, as such, to be responsible for review of work programs, consolidation of budgets and financial reports, contracting out of audits, and generally to ensure that the proceeds of the Credit are used in accordance with the objectives of the Credit and other modalities specified in this Agreement.

2. The Borrower shall maintain STP to be responsible for day-to-day management of the Project and, as such, to be responsible for preparation of work programs and budgets, management of procurement and disbursement activities, record-keeping and preparation of progress reports and other relevant documents required under the Project.

3. The Borrower shall take steps to ensure that:

(a) UCP shall be headed by a Project Coordinator, who shall be assisted by an internal auditor responsible for monitoring and evaluation of the project and an assistant, and other suitably qualified and experienced staff in adequate numbers;

(b) STP shall recruit a procurement advisor, a chief accountant and an accountant, and other suitably qualified and experienced staff in adequate numbers, to strengthen the skills and capacity of STP in financial management and procurement matters; and

(c) the positions of project coordinator, internal auditor and assistant, procurement advisor, chief accountant and accountant, which are referred to in this paragraph, shall be kept filled at all times by persons having qualifications and experience acceptable to the Association.

4. The Borrower shall carry out the Project in accordance with procedures set out in the Project Implementation Manual and, except as the Association shall otherwise agree, shall not amend or waive any provision thereof, if such amendment or waiver may, in the opinion of the Association, materially or adversely affect the implementation of the Project.

5. The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the 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, on or about June 30, 2002, a report integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (a) of this paragraph, 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 November 30, 2002 or such later date as the Association shall request, the report referred to in paragraph (b) of this Section, 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.

6. (a) The Borrower shall, not later than November 30 of each year, beginning November 30, 2001, furnish to the Association, for review and approval, proposed annual work programs and budgets for the forthcoming fiscal year, giving details of proposed disbursement estimates, proposed procurement activities, and such other particulars as the Association may require.

(b) The Borrower shall furnish to the Association, for review,

(i) quarterly progress reports on the status of the Project, to be submitted not later than one month after the end of each quarter, and

(ii) reports as needed on the award of contracts under the Project.

7. For purposes of Part A.1 (a) (ii) (A) of the Project, the Borrower shall:

(a) not later than December 31, 2001, conclude a management contract with a suitably qualified and experienced consultant to undertake an environmental baseline audit to identify pre-existing environmental problems encountered prior to the privatization of SOLIMA in order to assess environmental impact, identify risk sharing arrangements, and propose a remedial action plan and environmental risk mitigating measures;

(b) engage in a process of regular consultations with interested parties, on the basis of full disclosure of relevant available information and meaningful consultations, on the purpose and objectives of the audit, the progress and outcome thereof, and the elements of the proposed action plan and remedial measures; and

(c) based on the findings of the audit and the results of the consultative process, draw up a remedial action plan and risk mitigating measures, acceptable to the Association, and agreed upon by other interested parties; and take appropriate steps in view of executing the action plan and risk mitigating measures, in accordance with the time table and other modalities agreed upon under the action plan and risk mitigating measures.

8. The Borrower shall cause STP to have an independent procurement and quality audit carried out at six-monthly intervals and on a sampling basis by an external auditor, and to ensure that the recommendations of such audit shall be implemented as necessary and appropriate under the supervision of the procurement advisor referred to in paragraph 3 of this Schedule.

