

CONFORMED COPY

CREDIT NUMBER 3418-NIR

Development Credit Agreement

(Public Finance Recovery Adjustment Credit)

between

REPUBLIC OF NIGER

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated September 15, 2000

CREDIT NUMBER 3418-NIR

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated September 15, 2000, between Republic of Niger (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received from the Borrower a letter, dated August 14, 2000, describing a program of actions, objectives and policies designed to achieve transparency and sustainability of the Borrower's budget management system (hereinafter called the Program), declaring the Borrower's commitment to the execution of the Program, and requesting assistance from the Association in support of the Program during the execution thereof;

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

(C) on the basis, inter alia, of the foregoing, the Association has decided in support of the Program to provide such assistance to the Borrower by making the Credit as hereinafter provided;

NOW THEREFORE the parties hereto hereby agree as follows:

#### ARTICLE I

##### General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985, (as amended through October 6, 1999) with the modifications thereof set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) Section 2.01, paragraph 12, is modified to read:

"'Project' means the Program, referred to in the Preamble to the Development Credit Agreement, in support of which the Credit is made.";

(b) Section 4.01 is modified to read:

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

(c) Section 5.01 is modified to read:

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

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

(e) Section 9.06 (c) is modified to read:

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

(f) Section 9.04 is deleted and Sections 9.05, 9.06 (as modified above), 9.07 and 9.08 are renumbered, respectively, Sections 9.04, 9.05, 9.06 and 9.07.

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

(a) "BCEAO" means the Banque Centrale des Etats de l'Afrique de l'Ouest, the common central bank of the Borrower and other members of the WAEMU (as hereinafter defined);

(b) "CFA Franc" means "Franc de la Communauté Financière Africaine", the currency of the Borrower;

(c) "Comité National de Suivi de la Trésorerie de l'Etat" and "Treasury Committee" means the committee established by Ministerial

Instruction No. 491/MF/RE of November 25, 1999, and responsible for the planning and monitoring of the Borrower's cash resources;

(d) "Commission ad hoc des Gestion et de Traitement des Arriérés Intérieurs de l'Etat" means the now dissolved commission that was established by the Borrower pursuant to Decree No. 98-230-PRN-MF-RE-P of September 1, 1998, with the mandate of carrying out the verification and settlement of the Borrower's domestic arrears;

(e) "Confédération Nationale des Travailleurs" means a federation of trade unions, established and operating under the laws of the Borrower;

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

(g) "Fiscal Year" and "FY" mean the period from January 1 to December 31;

(h) "Loi de règlement" means a law passed by the Borrower's National Assembly every year which reviews the execution of the budget law (loi des finances) for the preceding fiscal year and contains a consolidated statement of actual budgetary receipts and expenditures of the Borrower for the fiscal year under review;

(i) "Maximum Tariff Rate" means the maximum customs duty (droit de douane) rate set forth in the Borrower's yearly budget law (loi des finances);

(j) "SNE" means "Société Nationale des Eaux", a state owned company established and operating under the Borrower's Ordinance No. 87/031 of September 24, 1987;

(k) "SONITEL" means "Société Nigérienne des Télécommunications", a mixed-ownership company established and operating under the laws of the Borrower;

(l) "Trésorerie Générale" means the directorate within the Borrower's Ministry of Economy and Finance that is responsible, inter alia, for the payment and accounting of the Borrower's central government expenditures;

(m) "Union des Syndicats de Travailleurs du Niger" means a federation of trade unions, established and operating under the laws of the Borrower; and

(n) "WAEMU" means the West African Economic and Monetary Union, established by a treaty, dated January 10, 1994, among its member countries, namely, Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo, and adhered to by Guinea Bissau in May 1997.

## 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 Twenty Six Million Five Hundred Thousand Special Drawing Rights (SDR 26,500.000).

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

(b) The Borrower shall open, prior to furnishing to the

Association the first request for withdrawal from the Credit Account, and thereafter maintain at BCEAO, a deposit account in CFA Francs on terms and conditions satisfactory to the Association. All withdrawals from the Credit Account shall be deposited by the Association into the Deposit Account.

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

Section 2.03. The Closing Date shall be June 30, 2001, or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

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

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on February 15 and August 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 February 15 and August 15, commencing February 15, 2011 and ending August 15, 2040. Each installment to and including the installment payable on August 15, 2020 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever (i) the Borrower's per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by the

Association of the development of the Borrower's economy, modify the repayment of installments under paragraph (a) above by: (A) requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid; and (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(d) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the French Republic is hereby specified for the purposes of Section 4.02 of the General Conditions.

### ARTICLE III

#### Particular Covenants

Section 3.01. (a) The Borrower and the Association shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program.

(b) Prior to each such exchange of views, the Borrower shall furnish to the Association for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Association shall reasonably request.

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Borrower shall exchange views with the Association on any proposed action to be taken after the disbursement of the Credit which would have the effect of materially reversing the objectives of the Program, or any action taken under the Program.

Section 3.02. Upon the Association's request, the Borrower shall:

(a) have the Deposit Account audited in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;

(b) furnish to the Association as soon as available, but in any case not later than six months after the date of the Association's request for such audit, a certified copy of the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

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

### ARTICLE IV

Additional Event of Suspension

Section 4.01. Pursuant to Section 6.02 (1) of the General Conditions, the following additional event is specified, namely, that a situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out.

ARTICLE V

Termination

Section 5.01. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. The Minister of the Borrower responsible for finance is designated as the representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministre des Finances  
Ministère des Finances  
B.P. 389  
Niamey, Niger

Cable address:

Facsimile:

735934                      Ministère des Finances                      (227)  
                                         Niamey, Niger

For the Association:

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

Cable address:

Telex:

Facsimile:

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

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

REPUBLIC OF NIGER

By /s/ Joseph Diatta

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Callisto Madavo

Regional Vice President  
Africa

SCHEDULE 1

Excluded Expenditures

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

1. expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower;
2. expenditures for goods or services supplied under a contract which any national or international financing institution or agency other than the Bank or the Association shall have financed or agreed to finance, or which the Bank or the Association shall have financed or agreed to finance under another credit or a loan;
3. expenditures for goods included in the following groups or subgroups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Borrower:

| Group | Subgroup | Description of Items                                                                                  |
|-------|----------|-------------------------------------------------------------------------------------------------------|
| 112   | -        | Alcoholic beverages                                                                                   |
| 121   | -        | Tobacco, unmanufactured, tobacco refuse                                                               |
| 122   | -        | Tobacco, manufactured (whether or not containing tobacco substitutes)                                 |
| 525   | -        | Radioactive and associated materials                                                                  |
| 667   | -        | Pearls, precious and semiprecious stones, unworked or worked                                          |
| 718   | 718.7    | Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors |
| 728   | 728.43   | Tobacco processing machinery                                                                          |
| 897   | 897.3    | Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmith's or  |

set gems) silversmiths' wares (including  
971 - Gold, non-monetary (excluding  
gold ores and concentrates)

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

5. expenditures for environmentally hazardous goods (for purposes of this paragraph the term "environmentally hazardous goods" means goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party;

6. expenditures (a) in the territories of any country which is not a member of the Bank or for goods procured in, or services supplied from, such territories or (b) on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and

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

#### SCHEDULE 2

Actions Referred to in Recital (B) of the Preamble to this Agreement

The Borrower has:

1. in accordance with the requirements of the WAEMU treaty, revised and implemented a new tariff structure pursuant to its Ordinance No. 99/65 of December 20, 1999, with the effect of reducing its Maximum Tariff Rate;

2. enacted Law No. 2000-003 of May 2, 2000, setting forth a new tax regime and increasing the value added tax rate in its territory from eighteen (18) to nineteen (19) percent;

3. enacted a revised budget law for FY 2000 based on revenue projections consistent with its revenue mobilization capacity and increased, under said budget law, the budgetary allocations for health and education sectors pursuant to the outline set forth in paragraphs 37 and 38 of the Program;

4. taken adequate steps to reduce the government's utility and telecommunications bill, including through the enforcement of Decree No 99-363 of August 31, 1999, discontinuing government subsidies of private utility consumption of public officials pursuant to the pursuant to the outline set forth in paragraph 88 of the Program;

5. re-enacted Ordinance No. 98-380 of December 24, 1998, governing the civil service retirement and pension regime and entered into agreements with the Union des Syndicats de Travailleurs du Niger and the Confédération Nationale des Travailleurs on the implementation of said Ordinance;

6. enacted Ordinance No. 99-55 of November 22, 1999, establishing a Road Maintenance Fund and Decree No. 2000-101 dated April 7, 2000, transferring road maintenance operation to private sector operators;



7. launched the privatization process with respect to SONITEL and SNE, by selecting, through pre-qualification, potential private sector investors, and formally inviting such investors to submit bids;
  8. formally launched the process of awarding two cellular phone licenses to private operators by inviting private companies, through advertisement in the international press, to submit bids to that effect, pursuant to the outline set forth in paragraphs 53 and 54 of the Program;
  9. circulated the Prime Ministerial Instruction No. 536, dated May 29, 2000, requiring all government agencies to execute their expenditures in accordance with the regulations in force in the territory of the Borrower's governing payments procedures;
  10. taken steps to regularize, in accordance with relevant budgetary and accounting rules and standards, all advance payments of public funds which were made during FY 2000, pursuant to the outline set forth in paragraphs 55 and 56 of the Program;
  11. implemented Ministerial Instruction No. 491/MF/RE of November 25, 1999, establishing the Comité National de Suivi de la Trésorerie de l'Etat, by making said committee fully operational;
  12. issued Arrêté Ministériel No. 176 / MFDGB/DCF, dated July 20, 2000, nominating financial comptrollers to monitor the expenditures of the major autonomous public sector agencies or enterprises that benefit from government subsidies, pursuant to the outline set forth in paragraph 89 of the Program;
  13. submitted to its National Assembly, a draft Loi de règlement for FY 1997;
  14. adopted an action plan for the reorganization of the Trésorerie Générale, based on the recommendations of the functional audit of the said Trésorerie Générale performed in 2000, pursuant to the outline set forth in paragraph 80 of the Program; and
  16. completed and furnished to the Association an evaluation report on the Commission ad hoc de Gestion des Arriérés Intérieurs de l'Etat.
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