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AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

PROJECT MEMORANDUM

NEW INDEPENDENT STATES: **PRIVATE SECTOR INITIATIVES**
(110-0005)

Authorized: April 22, 1992

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Private Sector Initiatives
No. 110-0005


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U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

ACTION MEMORANDUM FOR THE DIRECTOR, NIS TASK FORCE

FROM: NIS/TF, Barbara Turner 
SUBJECT: Project Authorization for the Private Sector
Initiatives Project No. 110-0005

Problem: Your approval is requested to authorize the Private Sector Initiatives Project at an initial life-of-project level of \$50 million to promote bilateral trade and investment, privatization and defense conversion activities in the Newly Independent States (NIS). The PACD will be four years from the date of initial obligation.

Background: The dramatic collapse of the Soviet Union presents an historic opportunity for a more peaceful and stable international order. It also opens to competitive international trade and investment the world's largest untapped market and natural resource base. Our challenge is the gradual integration of the Newly Independent States (NIS) of the former Soviet Union into the global economy and the community of democratic nations. The unsuccessful August, 1991 coup in Moscow, rather than reversing the political and economic reforms undertaken since 1985, has accelerated their pace and scope. It has given new urgency to NIS needs for Western assistance to transform their economies.

The United States has a vital interest in the success of this transition, to help ensure peace, to preclude dangerous and costly rearmament and to participate in the economic future of this region.

Transforming the Soviet style command economies of the NIS republics into open market, competitive economic systems faces a number of obstacles. The legal and regulatory framework to create the new systems is not yet complete. State-owned enterprises, particularly defense-related industries, continue to dominate the allocation of raw materials, labor and market access. There are also few citizens with entrepreneurial experience, even fewer with any experience operating a small or medium-size private business in a competitive market economy. Most individuals have had no exposure to western management, accounting, or marketing concepts. Conversely, American firms which could assist have little information about local conditions

in the NIS republics or about investing or establishing business ventures in the NIS republics.

In spite of their problems the NIS have very significant economic assets. In addition to a huge market and natural resource endowment they have a well educated population with significant scientific, technical and labor skills, infrastructure and a large installed production base. Most of these assets are controlled by the state and geared to meet the needs of the defense sector. The success of the transformation of the NIS economies will require reorienting these assets to meet the needs of the civilian economy. The US private sector is a vast source of technology, management capability, entrepreneurial skills and capital which can play a major role in this transformation. US professionals can help NIS governments create the legal and regulatory framework of a market economy. American companies can modernize, privatize and convert NIS enterprises to make a dynamic contribution to the civilian economy.

Based on a series of action plans developed in conjunction with the January, 1992 Coordinating Conference held in Washington, an initial AID program for the region has been developed. It has six objectives: To encourage free market economic systems; to promote democracy, to meet urgent humanitarian needs; to convert defense-oriented economies; to promote bilateral trade and investment and to increase the efficiency of the energy sector in the NIS. This project is an essential component of that program.

Many U.S. companies have been busy investigating opportunities in the NIS. What do they want the USG to do? In February of this year, the U.S. Department of Commerce held meetings with approximately 100 U.S. companies to answer this question. These findings have also been verified by a December 1991 report of the Geonomics Institute and the American Committee on US-Soviet Relations which consulted 80 U.S. firms.

1. Establish a framework to enhance bilateral trade and commercial relations;
2. Share the political and financial risk;
3. Provide commercial, legal and economic information on the NIS and facilitate initial access to potential business partners and relevant government officials there;
4. Provide technical assistance to help NIS governments develop the laws and regulations needed for privatization, trade and investment and implement them in a timely, orderly fashion;
5. Train NIS government functionaries in basic market economics and enterprise officials in modern management;
6. Establish better coordination and cooperation among USG agencies, business and academia.

As regards the US legal framework, repealing the Jackson-Vanik, Stevenson and Byrd Amendments and bilateral trade investment and tax agreements with the NIS would enhance the project but are not conditions to initiating activities. The Overseas Private Investment Corporation, OPIC, expects to sign bilateral agreements with all NIS governments and will provide insurance to protect US equity investment. The US Export-Import Bank, EXIM, has already begun to offer export credit and credit insurance, albeit at a level severely limited by Congress. Independent of this project, AID will consider development of a Private Sector Commodity Import Program to meet the foreign exchange requirements of US business ventures in the NIS until the ruble is fully convertible.

Discussion : The purpose of the Private Sector Initiatives Project is to facilitate the economic transformation of the Newly Independent States (NIS) by involving US businesses and institutions in areas where they have a comparative advantage. The primary focus will be on the reorientation of the defense focused NIS economies through co-ventures involving US firms and through support of the emergence of indigenous small businesses (TAB A).

The Private Sector Initiatives Project will be concerned with bilateral trade and investment, defense conversion and privatization. It will fund technical assistance, business support services and training. Technical assistance will be provided to help NIS governments create the legal, policy and regulatory framework needed for bilateral private sector trade and investment, defense conversion and privatization. Business support and training activities funded by the project will be designed to encourage and facilitate US trade and investment and emergence of an indigenous private sector oriented to the civilian economy. The primary focus of the project will be defense conversion in the broad sense of transforming of the orientation of the economy from defense to civilian needs. Thus, while giving priority to US private investment in converting NIS defense plants to produce non military products, the project will also support other US and local private businesses which create job opportunities for workers who might otherwise be in the defense sector.

The life of project funding for the Private Sector Initiatives Project is \$50 million, with \$12.5 million reprogrammed ESF funds available for obligation at this time. This project will enter into four interagency agreements. Funds provided under these agreements to other U.S. agencies are of a short-term nature and are intended to allow these agencies to initiate operations, while they adjust their own budgets to meet new priorities in the NIS. A brief description of project components follows.

US Investment

a. The Private Sector Initiatives Project will field teams of long-term resident advisors and short-term technicians to assist in conversion of defense industry centers in Russia, Ukraine and a Central Asian Republic. These advisors will provide investors information on NIS defense conversion opportunities and facilitate their access to the people with whom they must deal to pursue them. They will recommend to local authorities and the USG, actions which might facilitate defense conversion, privatization and foreign investment. Life of Project (LOP) funding for this activity is \$8 million of which \$2 million is available for obligation at this time. The required PIO/T is in draft (TAB C1).

b. The project will fund the establishment of a Trade and Investment Service in key NIS locations to provide technical assistance to help NIS governments create a legal and regulator framework for bilateral trade and investment, privatization and defense conversion. This organization will also facilitate U.S. investment. Life of project funding for this activity is \$16 million of which \$1.5 will be obligated this fiscal year.

c. The Overseas Private Investment Corporation (OPIC) will conduct US investment missions to the NIS and follow-up on them. LOP funding is \$3 million of which \$300,000 is available for obligation. The 632 (b) interagency agreement (IAA) is in draft (TAB C2).

d. The soon to be created Eurasia Foundation (Project No. 110-0010) will conduct project related training. Emphasis will be on short term training in management and basic market economics for government officials and managers of the defense industries which are being converted. LOP funding for this activity is \$5 million with no FY 1992 allocation planned.

Trade

a. The Department of Commerce (DOC) will establish in Washington, D.C. a clearinghouse for information on business opportunities in the NIS, business reputation of NIS firms and on US government programs. This will be modeled on the Eastern Europe Business Information Center (EEBIC). LOP funding for this activity is \$1.5 million of which \$165,000 is available for obligation. The 632 (b) IAA is in draft (TAB C3).

b. The DOC will assist up to nine selected consortia of US trade associations to establish offices in the NIS and implement activities designed to encourage US exports and technology transfer. Grants of up to \$500,000 will be made by DOC to selected consortia to co-fund the cost of this activity. LOP funding for this activity is \$5 million of which \$1,225,000 is

available at this time. The 632 (b) IAA is in draft (TAB C3).

c. The Trade Development Program (TDP) will provide grants to NIS governments to contract US companies to do feasibility studies on infrastructure projects which have a potentially high requirement for inputs from the US. LOP funding for this activity is \$5 million of which \$3 million is available. The 632 (b) IAA is in draft (TAB C4).

Privatization

The Private Sector Initiatives Project will also avail itself to a number of initiatives in privatization. For example, the International Finance Corporation (IFC) is considering submitting a proposal for a grant to hold auctions for the privatization of former State-controlled shops. Other activities that further efforts for privatization will be considered and could include such things as support for defense conversion, private banking and assistance to governmental ministries/agencies involved in the promotion of privatization. LOP funding for this activity is \$6.5 million, with \$4.3 million obligated at this time.

Summary (\$ millions) * Obligations

	<u>FY 92</u>	<u>LOP</u>
1. Defense Conversion	2.00	8.00
2. Trade & Investment Service	1.50	16.00
3. Investment Missions (OPIC)	0.30	3.00
4. Training (Eurasia Foundation)	0.00	5.00
5. Business Information Center (DOC)	0.16	1.50
6. Consortia (DOC)	1.24	5.00
7. Infrastructure Feasibility Studies (TDP)	3.00	5.00
8. Privatization	<u>4.30</u>	<u>6.50</u>
Total	12.50	50.00

*Any line item in this budget may be adjusted upward or downward by 15% during the life of project as necessary and without amending this authorization; and adjustments greater than 15% must be approved by you.

DESIGN AND REVIEW PROCESS: In the interim, pending adoption of specific procedures for the NIS Task Force, we have followed for this project the design, approval and authorization procedures established for Eastern Europe projects which otherwise meet A.I.D. regulations and policies. Appropriate clearances have

been sought and, as stated above, a formal inter-agency review of the PDP was undertaken on March 26, 1992 (TAB B). The State Department's Coordinator's Office has fully participated in the development of this project, providing policy guidance and clearing The Project Memorandum and this Authorization package.

CONGRESSIONAL NOTIFICATION: The Congressional Notification expired on March 25, 1992. A copy is attached as TAB D.

SOURCE AND ORIGIN: Goods and services procured under the Project will have their source and origin in the United States (Code 000) for foreign exchange costs or in the cooperating country for local currency costs. Local procurement within states of the NIS will be conducted in accordance with Chapter 18 of A.I.D. Handbook 1B. A formal determination under Section 604 (a) of the Foreign Assistance Act of 1961 was signed by the Deputy Secretary on March 30, 1992 removing the NIS from the category of non-Free World countries. Procurement from Code 941 and Code 935 countries, if required, will be done on the basis of appropriate waivers.

ENVIRONMENTAL CONSIDERATIONS: The Project will finance technical assistance, training, limited commodity procurement, and pre-investment studies and related activities. As such, it is not expected to have a significant environmental impact, which would require a formal environmental assessment. Technical assistance and training activities are excluded from examination under 22 CFR 216.2 (c)(2)(i). The environmental procedures of TDP, OPIC, Peace Corps and Commerce will apply to project funds transferred to these agencies. The IEE is contained at TAB F for your signature.

AVAILABILITY OF FUNDS: Funds in the amount of \$12.5 million have been apportioned by OMB to A.I.D. for the above activities.

IMPLEMENTATION DETAILS:

- **Monitoring:** Overall project supervision and monitoring will be the responsibility of an A.I.D. Project Officer assigned to the NIS Task Force. That Project Officer will be assisted by other Project Officers who will oversee the day-to-day implementation of the various sub-activities. Recipients of A.I.D. funds under IAAs will be responsible for monitoring 2A.I.D.-financed activities and these agencies will submit periodic reports to A.I.D. on the status of these activities.

Monitoring will be conducted initially from Washington and will be based upon field reports provided by the grantees and contractors and Embassy staff travelling through the region. As soon as permanent A.I.D. personnel are stationed in the NIS, direct oversight

and monitoring will be supported by in-country A.I.D. staff.

The defense conversion advisors will report to the A.I.D. Mission Director, who will receive policy guidance from A.I.D./Washington and the Department of State, including the Moscow representative of the Deputy to the NIS Coordinator.

Quarterly reports will be required of all project implementors (USG agencies and grantees). Project Implementation Reviews will be conducted on a semi-annual basis. Periodic field assessments will be undertaken with the frequency necessary for good management.

- **Evaluation:** Each transfer recipient, grantee and contractor will prepare an evaluation plan to be approved by A.I.D. or the U.S. agency implementing the activity. Funds will be available under the Project to pay for external evaluations, as necessary. An evaluation at the end of the second year may be undertaken in cooperation with other participating USG agencies to determine overall project progress and recommend necessary modifications, if necessary.
- **Audit:** Contracts, grants and IAAs executed under this project will provide that audit and inspection requirements as set forth in the Inspector General Act of 1978, as amended, shall apply. A.I.D.'s IG shall ensure full compliance with all applicable provisions of the Act in agreement between the U.S. and recipient states as noted below with respect to taxes.
- **Host Country Duties and Taxes:** A Circular 175 authorization was obtained from the Deputy Secretary of State on February 4, 1992 permitting negotiation of U.S.-NIS states agreements covering these matters (TAB G). Negotiation should commence shortly. These written arrangements will include appropriate language concerning aid recipients' responsibilities and contributions, duties and taxes, inter alia, that A.I.D. funds are not used to pay host country duties or taxes, that site inspections by the IG may be made and that A.I.D. financed commodities will be used only for project purposes.

STATUTORY CHECKLISTS: State completed country checklists for all States of the NIS except Georgia on January 17, 1992 and February 27, 1992. Copies of those classified documents are on file in EUR/OSA. Assistance may be extended to Georgia in the near future; however, this will be done only after a checklist is

completed, and after "taking into account" matters are reviewed and approved by the Administrator specifically for that State.

Because certain states of the former Soviet Union are indebted to U.S. citizens, the Deputy Secretary of State issued a 620 (c) determination on January 20, 1992 that program activities proceed based on national security considerations. The determination is attached as TAB H.

"Taking into account" matters were reviewed and approved by the Administrator (TAB I) on March 27, 1991. One matter needed consideration. It was pursuant FAA Section 620 (1), that OPIC has initiated negotiations but has not yet executed investment guaranty agreements with any of the eleven states to whom we plan to render assistance, but that assistance permitted to flow to these states under the circumstances.

AUTHORITY: On September 10, 1991, the Secretary of State signed a Section 620 (f) determination (TAB J) to permit assistance to the Soviet Union. You have authority to authorize this project pursuant to Interim Reorganization Delegation of Authority No. 1 dated May 16, 1991. This delegation of authority is attached at TAB K.

RECOMMENDATION: That by signing below and where indicated you: (1) authorize the Private Sector Initiatives Project, No. 110-0005, a four year activity with a planned life-of-project funding of \$50 million, subject to the availability of funds and (2) approve the Initial Environmental Examination (TAB E).

Approved: Malcolm Smith

Disapproved: _____

Date: 4/22/92

PRIVATE SECTOR INITIATIVE PROJECT NO. 110-0005
DOCUMENTATION STATUS

Authorization Memo
Drafted.

Attachments:

- TAB A - Project Memorandum**
- TAB B - Minutes of Inter-Agency Meeting, 03/26/92**
- TAB C1- Draft PIO/T for IESC**
- TAB C2- Draft IAA with OPIC**
- TAB C3- Draft IAA with Commerce**
- TAB C4- Draft IAA with TDP**
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- TAB K - Interim Reorganization Delegation of Authority**

CLEARANCES:

EUR/OSA:JWiles date
NIS/TF:HJohnson date 2/1/02
EUR/RME:INesterchuk date 6/2/02
GC/LAC:TGeiger date 4/10/02
STATE/D/CISA:LCheney date 4/14/02

PROJECT MEMORANDUM

Private Sector Initiatives
Project No. 110-0005

Background and Rationale

The dramatic collapse of the Soviet Union presents an historic opportunity for a more peaceful and stable international order. It also opens to competitive international trade and investment the world's largest untapped market and natural resource base. Our challenge is the gradual integration of the Newly Independent States (NIS) of the former Soviet Union into the global economy and the community of democratic nations. The unsuccessful August, 1991 coup in Moscow, rather than reversing the political and economic reforms undertaken since 1985, has accelerated their pace and scope. It has given new urgency to NIS needs for Western assistance to transform their economies.

The United States has a vital interest in the success of this transition, to help ensure peace, to preclude dangerous and costly rearmament and to participate in the economic future of this region.

Transforming the Soviet style command economies of the NIS republics into open market, competitive economic systems faces a number of obstacles. The legal and regulatory framework to create the new systems is not yet complete. State-owned enterprises, particularly defense-related industries, continue to dominate the allocation of raw materials, labor and market access. There are also few citizens with entrepreneurial experience, even fewer with any experience operating a small or medium-size private business in a competitive market economy. Most individuals have had no exposure to western management, accounting, or marketing concepts. Conversely, American firms which could assist have little information about local conditions in the NIS republics or about investing or establishing business ventures in the NIS republics.

In spite of their problems the NIS have very significant economic assets. In addition to a huge market and natural resource endowment they have a well educated population with significant scientific, technical and labor skills, infrastructure and a large installed production base. Most of these assets are controlled by the state and geared to meet the needs of the defense sector. The success of the transformation of the NIS economies will require reorienting these assets to meet the needs of the civilian economy. The US private sector is a vast source of technology, management capability, entrepreneurial skills and capital which can play a major role in this transformation. US professionals can help NIS governments create the legal and regulatory framework of a market economy. American companies can modernize, privatize and convert NIS

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enterprises to make a dynamic contribution to the civilian economy.

Based on a series of action plans developed in conjunction with the January, 1992 Coordinating Conference held in Washington, an initial AID program for the region has been developed. It has six objectives: To encourage free market economic systems; to promote democracy, to meet urgent humanitarian needs; to convert defense-oriented economies; to promote bilateral trade and investment and to increase the efficiency of the energy sector in the NIS. This project is an essential component of that program.

Many U.S. companies have been busy investigating opportunities in the NIS. What do they want the USG to do? In February of this year, the U.S. Department of Commerce held meetings with approximately 100 U.S. companies to answer this question. These findings have also been verified by a December 1991 report of the Geonomics Institute and the American Committee on US-Soviet Relations which consulted 80 U.S. firms.

1. Establish a framework to enhance bilateral trade and commercial relations;
2. Share the political and financial risk;
3. Provide commercial, legal and economic information on the NIS and facilitate initial access to potential business partners and relevant government officials there;
4. Provide technical assistance to help NIS governments develop the laws and regulations needed for privatization, trade and investment and implement them in a timely, orderly fashion;
5. Train NIS government functionaries in basic market economics and enterprise officials in modern management;
6. Establish better coordination and cooperation among USG agencies, business and academia.

As regards the US legal framework, repealing the Jackson-Vanik, Stevenson and Byrd Amendments and bilateral trade investment and tax agreements with the NIS would enhance the project but are not conditions to initiating activities. The Overseas Private Investment Corporation, OPIC, expects to sign bilateral agreements with all NIS governments and will provide insurance to protect US equity investment. The US Export-Import Bank, EXIM, has already begun to offer export credit and credit insurance, albeit at a level severely limited by Congress. Independent of this project, AID will consider development of a Private Sector Commodity Import Program to meet the foreign exchange requirements of US business ventures in the NIS until the ruble is fully convertible.

Purpose

To facilitate the economic transformation of the Newly Independent States (NIS) by involving US businesses and institutions in areas where they have a comparative advantage. The primary focus will be on the reorientation of the defense focused NIS economies through co ventures involving US firms and through support of the emergence of indigenous small businesses.

Description

The Private Sector Initiatives project will be concerned with bilateral trade and investment, defense conversion and privatization. It will fund technical assistance, business support services and training. Technical assistance will be provided to help NIS governments create the legal, policy and regulatory framework needed for bilateral private sector trade and investment, defense conversion and privatization. Business support and training activities funded by the project will be designed to encourage and facilitate US trade and investment and emergence of an indigenous private sector oriented to the civilian economy. The primary focus of the project will be defense conversion in the broad sense of transforming of the orientation of the economy from defense to civilian needs. Thus, while giving priority to US private investment in converting NIS weapons plants to produce non military products, the project will also support other US and local private businesses which create job opportunities for workers who might otherwise be in the defense sector.

Project Components

Life of project funding for this four year project is \$50 million. The following is a brief description of project components.

US Investment

a) The Private Sector Initiatives Project will field long-term resident advisors and short-term technical assistants on defense conversion in key NIS locations to provide technical assistance to help NIS governments create a legal and regulatory framework for defense conversion, privatization and bilateral trade and investment and to facilitate investor access to defense conversion opportunities.

b) This project will fund a Trade and Investment Service (TIS) which will facilitate privatization, defense conversion and U.S. private investment in central NIS business locations.

c) An Interagency Agreement with the Overseas Private Investment Corporation (OPIC) to fund investment missions to the NIS.

d) A grant to the Eurasia Foundation to fund business management and market economics training.

Trade

a) An Interagency Agreement with the Department of Commerce to establish a NIS business information center in Washington and the Consortia Program to involve US trade associations in the NIS.

b) An Interagency Agreement with Trade Development Program (TDP) to fund feasibility studies for NIS infrastructure projects.

Privatization

a) The Private Sector Initiatives Project will avail itself to a number of initiatives in privatization. For example, the International Financial Corporation (IFC) is considering submitting a proposal for a grant to carry-out auctions for the privatization of former State-controlled shops. Other activities that further privatization efforts will be considered.

US Investment

The existing NIS productive capacity is controlled by the military or the government, thus US investment in joint ventures there will necessarily have to involve privatization or defense conversion in some way. The absence of the legal and regulatory framework needed for privatization and foreign investment requires that technical assistance to help NIS governments create that framework be a part of a US investment promotion program. NIS governments are requesting US technical assistance in this area and welcome US private investment. European, Japanese and Korean business people, with the support of their governments, are investing in the NIS. Thus the US should not turn a deaf ear to the NIS reformers pleas for help, cannot afford to delay investment promotion initiatives until the policy environment is right and will not be able to compete with other industrialized nations for NIS business until the US government provides a modicum of support to US private sector efforts to establish a long term business presence in the important but volatile NIS market.

a. Defense Conversion Advisors

The project will provide funding to field teams of advisors

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who will facilitate defense conversion and private investment in the NIS.

Teams of long-term resident advisors, supplement by short-term technicians, will be assigned to four cities within the NIS. Two of these teams will be located within the Russian Republic and one team each in the Republics of Ukraine and a Central Asian Republic, respectively. They will work with local political and business leaders (or "enterprise officials") to identify prerequisites for foreign business engagement and elicit specific commitments including a baseline industrial and service sectors inventory, tax incentives, and the removal of legal and regulatory barriers.

Working through U.S. Government representatives, they will serve as a conduit for the U.S. business community by providing on-the-ground support in country, a direct line to Washington regarding specific requirements for support, and follow-up contacts with U.S. business; and again working through the embassies, they will serve as a conduit to Washington on local commitment, legal and regulatory barriers, western business involvement, and requirements for technical assistance and investment support on particular projects or commercial ventures.

The long-term resident advisors should be experienced businesspersons with at least 15 years experience in at least some combination of two or more of the following areas: investment, banking or finance; manufacturing; marketing and management. Individuals with solely academic or solely defense industry backgrounds are not acceptable. Previous experience in the former Soviet Union and with privatization of state-owned enterprises are desirable. Short-term technical experts should also have at least 10 years of business experience, although engineering and scientific experience may be more relevant for a given local situation.

The resident advisory teams in each locality selected will be assigned the following responsibilities and tasks. They will be working in conversion defense industries to civilian oriented activities and thus will not be making any input to strengthening the defense sector.

1. Assist government authorities in understanding how current policies constrain defense conversion, privatization, trade and investment. Assist these authorities to systematically analyze and correct policies that are detrimental to defense conversion, privatization and foreign investment through policy audits of domestic laws, regulations, policies and procedures.
 2. Provide technical assistance to local authorities responsible for designing and implementing policy changes.
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3. Counsel prospective investors on local operating conditions, laws, regulations, and procedures for conducting business. Identify for investors key local government and "business" leaders who are vital to the development and execution of business transactions involving foreign investment, defense conversion and privatization.
4. Identify and screen business opportunities in defense conversion and privatization including the potential opportunities for commercialization of both production and research establishments.
5. Prepare information which investors would require on specific defense conversion opportunities; communicate that information to potential investors through U.S. Government and private channels.
6. Provide within one month of arrival to their designated city, a report on local and national barriers to trade and investment and provide recommendations on commitments local and national authorities would have to make to attract western investment such as tax incentives, dispute resolution mechanisms, etc.
7. Provide timely assessments of the commitment of local and national authorities and enterprise directors to facilitate defense conversion, privatization, and western investment.. Assist in the development of local economic and commercial infrastructure to facilitate investment and defense conversion.
8. Provide technical experts to advise local leaders, enterprises and research institutes on the commercialization and conversion of current and former defense establishments. Such expertise will include but not be limited to expertise on specific manufacturing and marketing processes and technologies. Life of project (LOP) funding is estimated to be \$8 million.

b. Trade and Investment Service

The Private Sector Initiatives Project will fund the establishment of a Trade and Investment Service, which will facilitate privatization, defense conversion and U.S. private investment in central NIS business locations, including Moscow, St. Petersburg and a far eastern city in Russia; Kiev, Ukraine and Alma Ata, Kazakhstan. It will provide technical assistance to help NIS governments develop the laws and regulations needed for defense conversion, privatization and bilateral trade and investment and implement them in a timely, orderly fashion. It will provide information, contacts and logistical support to potential U.S. investors and pay for feasibility studies.

The TIS investment promotion effort will be different from the U.S. Department of Commerce (USDOC) investment promotion program inasmuch as it will focus on specific investment opportunities and proactively seek high potential U.S. investors to pursue them. It will provide information to USDOC networks but will not replicate them. TIS will coordinate its investment promotion activities with USDOC, OPIC and EXIM. The A.I.D. Mission will provide oversight and guidance to the TIS on any policy discussions in which they may usefully engage.

The TIS, staffed with long-term American and local professionals, will be an ongoing presence in the key NIS business locations to develop and follow-up on reform initiatives and business opportunities. It will develop working relationships with key people in the local business community and government. It will gather information on the legal and regulatory framework and on investment opportunities. To a great extent, it will draw on other existing USG contracts and projects to provide technical assistance on the legal and regulatory framework and to prepare translation of laws. In this context, it will make available in English all relevant laws and regulations and help NIS governments create or improve them to overcome deficiencies which impede investment. It will focus potential U.S. investors on good business opportunities, explain the laws and regulations which affect these opportunities, and introduce investors to local people with whom they must work to pursue co-ventures in the NIS.

The TIS will carry out a proactive investment promotion effort in the U.S., facilitate U.S. investor travel around the NIS and finance feasibility studies related to U.S. joint ventures, licensing agreements or franchises in the NIS. Where appropriate, it will establish business centers to provide communications and logistical support for U.S. business people in the NIS. Establishment of these business centers will be co-located, if possible and coordinated with the USDOC's Foreign Commercial Service.

The difference between TIS and the work of the long-term defense conversion teams in the defense cities is that TIS will create an enduring technical assistance and investment promotion organization with local staff, business centers and feasibility study fund. TIS will support the defense advisors but will also create a organization that will eventually be run by local professionals who will orchestrate input of short-term U.S. technical assistance and facilitate U.S. investment. The TIS program will field one contracted American manager for a three to five year assignment in each of the five TIS locations. These will be people fluent in Russian, Ukraine or Kazakh and with at least ten years of senior business experience, preferably in investment banking involving the NIS. LOP funding for the TIS is \$16 million.

c. U.S. Investment Missions

The Overseas Private Investment Corporation (OPIC) has successful experience in organizing US investment missions. The Trade and Investment Service funded under this project will be equipped to cooperate with OPIC to support investment missions. Given OPIC's experience, and established links with the US private sector make it ideal to take the lead in organizing and implementing investment missions to the NIS funded under this project. LOP funding is \$3 million.

d. Training

Success in defense conversion, privatization and promoting US investment in the NIS will require a focused training effort. NIS government officials and enterprise managers will require training in basic market economics and western business management and techniques. It is important that this training directly relate to the government departments and enterprises involved in this project. A grant will be made to the new Eurasia Foundation to provide this training through subgrants to selected US institutions or individuals. Most of the training would be short-term and given in the NIS. No degree training would be funded. LOP funding is \$5 million.

Trade

The trade promotion activities under the PSI project will be implemented by the Department of Commerce and the Trade Development Program (TDP). These agencies have a proven record of success in carrying out these programs in Eastern Europe and elsewhere. These activities will be funded through Section 632(b) Interagency Agreements with Commerce and TDP.

The Commerce activities will provide information on trade and investment opportunities to tens of thousands of American

businesses. TDP will fund feasibility studies for infrastructure projects.

a. New Independent States Information Center (NISBIC)

Similar to the Eastern Europe Business Information Center (EEBIC), NISBIC, located at the Commerce Department in Washington, D.C., would establish a clearinghouse for business information, including commercial opportunities in the independent states of the former Soviet Union, information on business reputation of NIS firms, and on U.S. Government programs. NISBIC also will develop a regularly-issued bulletin summarizing recent business developments, USG programs and trade opportunities. Through its Overseas Business Network of business information reporters located throughout the NIS meet expanding opportunities and greatly expand trade and investment relations. LOP funding in \$1.5 million.

b. Consortia Program

Patterned after the Eastern European consortia program, this activity would assist U.S. firms in establishing a commercial presence in the NIS through the formation of private and public sector non-profit consortia of American businesses. AID funds made available to Commerce would co-fund, through grants of a maximum of \$500,000 to a maximum of nine selected U.S. consortia, their cost of establishing one or more offices in the NIS and the implementation of activities designed to encourage U.S. exports and technology transfer. The consortia will be selected by Commerce through an open competitive process. Priority consideration will be given to those applications which demonstrate a relationship between the proposed U.S. exports and technology transfer on the one hand and defense conversion and/or privatization on the other. LOP funding is \$5 million.

c. Feasibility Studies for Infrastructure Projects

TDP, with funding from AID under this project, will provide grants to NIS governments to fund their hiring US companies to do feasibility studies on infrastructure projects which have a potentially high requirement for inputs from the US. This has proven to be a successful way to expand US export opportunities because local governments are given an incentive to engage US consultants who inevitably build US product specifications into their feasibility studies. LOP funding is \$5 million.

Privatization

There is virtually no private sector in the NIS but there are a significant number of NIS citizens who will take the risk in purchasing previously State-controlled shops. The Private Sector Initiative Project will help in the overall privatization effort. For example, the International Finance Corporation (IFC) is considering submitting a proposal for a grant to carry-out auctions of former State-controlled shops. Small and micro enterprises that will emerge from these privatization efforts will be the incubator of the NIS private sector. They can provide jobs for substantial numbers of people being displaced from inefficient state industries. They can create a civilian economy to replace the defense oriented productive sector. The emerging entrepreneurs who establish small businesses today will own tomorrow's medium and large businesses.

Other activities that further efforts for privatization will also be considered under this component. This could include, to name a few, such things as support for defense conversion, private banking and assistance to governmental ministries/agencies involved in promotion of privatization. LOP funding is \$6.5 million.

PROPOSED LIFE OF PROJECT FUNDING**Obligations**

FY 1992 \$12.5 million and four year life-of-project funding of \$50 million.

Illustrative Budget

	<u>FY 1992</u>	<u>LOP</u>
1. Defense Conversion	2.00	8.00
2. Trade and Investment Service	1.50	16.00
3. Investment Missions (OPIC)	0.30	3.00
4. Training (Eurasia Foundation)	0.00	5.00
5. Business Information Center (DOC)	0.16	1.50
6. Consortia (DOC)	1.24	5.00
7. Infrastructure Feasibility Studies (TDP)	3.00	5.00
8. Privatization	<u>4.30</u>	<u>6.50</u>
Total	12.50	50.00

IMPLEMENTATION DETAILS:

- **Monitoring:** Overall project supervision and monitoring will be the responsibility of an A.I.D. Project Officer assigned to NIS Task Force. That Project Officer will be assisted by other Project Officers who will oversee the day-to-day implementation of the various sub-activities. Recipients of A.I.D. funds under IAAs will be responsible for monitoring A.I.D.-financed activities and these agencies will submit periodic reports to A.I.D. on the status of these activities.

Monitoring will be conducted initially from Washington and will be based upon field reports provided by the grantees and contractors and Embassy staff travelling through the region. When permanent A.I.D. personnel are stationed in the NIS, direct oversight and monitoring will be supported by in-country A.I.D. staff.

The defense conversion advisors will report to the A.I.D. Mission Director, who will receive policy guidance from A.I.D./Washington and the Department of State, including the Moscow representative of the Deputy to the NIS Coordinator.

Quarterly reports will be required of all project implementors (USG agencies and grantees). Project Implementation Reviews will be conducted on a semi-annual basis. Periodic field assessments will be

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undertaken with the frequency necessary for good management.

- **Evaluation:** Each transfer recipient, grantee and contractor will prepare an evaluation plan to be approved by A.I.D. or the U.S. agency implementing the activity. Funds will be available under the Project to pay for external evaluations, as necessary. An evaluation at the end of the second year may be undertaken in cooperation with other participating USG agencies to determine overall project progress and recommend necessary modifications, if necessary.
- **Audit:** Contracts, grants and IAAs executed under this project will provide that audit and inspection requirements as set forth in the Inspector General Act of 1978, as amended, shall apply. A.I.D.'s IG shall ensure full compliance with all applicable provisions of the Act in agreement between the U.S. and recipient states as noted below with respect to taxes.
- **Host Country Duties and Taxes:** A Circular 175 authorization was obtained from the Deputy Secretary of State on February 4, 1992 permitting negotiation of U.S.-NIS states agreements covering these matters (TAB G). Negotiation should commence shortly. These written arrangements will include appropriate language concerning aid recipients' responsibilities and contributions, duties and taxes, inter alia, that A.I.D. funds are not used to pay host country duties or taxes, that site inspections by the IG may be made and that A.I.D. financed commodities will be used only for project purposes.

Risk

Nationalism at the republic level, social unrest and mass demonstrations over price increases and the ensuing hardships caused by economic restructuring may cause political/economic leaders in the NIS to alter reform programs. As such, this may restrict the benefits of the intended technical assistance programs.

Assessment

Certain assistance provided under this project includes advice and training. These types of activities do not relieve the pressure for economic change which arise from the shortage of resources. While the benefits of this project are likely to be less than they would be if carried out in a reform environment, the activities will encourage reforms by broadening the understanding of the market system and assisting in the design of reforms with reduced adverse effects.

Risk

Inter-republic relations remain at this time unstable as a framework is being conceived formalizing the political, economic, and military future of the NIS. A technical assistance program favoring the Russian republic based on demographics and economics alone may further destabilize inter-republic relations.

Assessment: Adapting this project to fit, as best as possible, republic-level defense conversion needs and investment opportunities will allow the benefits of this project to be distributed throughout the NIS and may avert further inter-republic tensions where foreign assistance is concerned.

Risk

Other U.S. Government organizations may be used to implement this Project. Coordination and control will be difficult with so many actors.

Assessment: The Europe Bureau has experience with this type of cooperation under the American Business and Private Sector Development Initiative for Eastern Europe. That experience has been, for the most part, favorable.

PROPOSED GRANT/CONTRACT MECHANISM

The primary method for implementing A.I.D.-managed activities will continue to be through the usual A.I.D. contracting and granting arrangements including IQCs, small business set-a-sides, and the funding of relevant unsolicited

proposals. 632 (b) Interagency Agreements will be used to transfer funds to other government implementing agencies. Waivers will be used to transfer funds to other government implementing agencies. Waivers will be obtained as required to make it possible to utilize contracting procedures other than full and open competition.

OTHER PROCUREMENT ISSUES:

The Project Authorization will state that goods and services procured under the Project will have their source and origin in the United States (Code 000) for foreign exchange costs or in the cooperating country for local currency costs. Local procurement with states of the NIS will be conducted in accordance with Chapter 18 of A.I.D. Handbook 1B. A formal determination under Section 604 (a) of the Foreign Assistance Act of 1961 is in process to remove the NIS from the category of non-Free World countries. In the meantime, a previous determination will allow procurement to proceed as necessary. Procurement form Code 941 and Code 935 countries, if required, will be done on the basis of appropriate waivers.

ENVIRONMENTAL CONSIDERATIONS: The Project will finance technical assistance, training, limited commodity procurement, and pre-investment studies and related activities. As such, it is not expected to have a significant environmental impact, which would require a formal environmental assessment. Technical assistance and training activities are excluded from examination under 22 CFR 216.2 (c) (2) (i) and 216.2 (c) (viii). The environmental procedures of TDP, OPIC, Peace Corps and Commerce will apply to project funds transferred to these agencies.

ANTICIPATED ACCOMPLISHMENTS

- (1) Respond rapidly to the assistance needs in the NIS by modifying existing programs and mechanisms proven successful in Central and Eastern Europe and other countries where AID is active.
- (2) Support defense conversion, restructuring of the state-dominated economy and creation of an indigenous private sector.
- (3) Increase bi-lateral trade and investment between the U.S. and the NIS by facilitating the involvement of the U.S. private sector.

SUMMARY MEMORANDUM OF CONVERSATION
INTER-AGENCY REVIEW
NIS PRIVATE SECTOR INITIATIVES
PROJECT 110-0005
March 26, 1992

PARTICIPANTS: Representatives of A.I.D., CIA, CEA, DOC, OMB, State and Treasury, (see attached list).

DISCUSSION: The Inter-Agency Review was chaired by EUR/OSA Director Paul O'FARRELL on behalf of the Bureau for Europe and the NIS Task Force. Mr. O'FARRELL opened the meeting by announcing that NIS Task Force Member Greg Huger would summarize the proposed Private Sector Initiatives Project and then open the meeting for a discussion of issues.

Mr. HUGER stated that the project emphasizes two objectives of the six established by the January 1992 Coordinating Conference:

i) promotion of bilateral trade and investment and ii) defense conversion. The project is composed of three elements:

a) **U.S. investment promotion** - to be accomplished by making a Grant to the International Executive Service Corps (IESC) to create a Trade and Investment Services (TIS) organization in the NIS. This organization would be led and focused by American managers, and staffed primarily by highly qualified NIS locals. TIS will develop relationships with key individuals in the local government, and business community. It will provide technical assistance to create a framework for defense conversion, privatization, and U.S. investment. TIS will proactively seek out potential U.S. investors and endeavor to facilitate their investments in the NIS. Mr. HUGER stressed the uniqueness of this type of organization that IESC would create. He noted that this is quite different from traditional IESC programs of volunteer technical assistance, but by no means a new or unique program for A.I.D. or IESC.

The Overseas Private Investment Corporation (OPIC) will participate in investment promotion by conducting investment missions. Similarly, a grant will be made to the Eurasia Foundation to conduct project-related training activities.

b) **U.S. trade promotion** - to be accomplished by the Department of Commerce through the creation of a New Independent States Business Information Center and a Business Consortia Program. Both of these elements would be similar to the successful programs currently being implemented for the Central and Eastern Europe program. The Trade Development Program will participate by implementing infrastructure feasibility studies.

c) **Assistance to create an indigenous private sector** - to be accomplished by a grant to the Peace Corps to send volunteers to the NIS to provide technical assistance in this area.

DAS Frank VARGO, DOC, expressed his concern that the creation of an organization outside of the auspices of the USFCS to promote trade and investment would be inefficient, wasteful of limited USG resources, and confuse the U.S. business community. Mr. VARGO felt that for this type of activity to be accomplished efficiently, this organization should be linked to the DOC whose role is to promote trade and investment. Mr. VARGO said that DOC is in the process of putting together an alternate proposal for the Trade and Investment component of the Project. Mr. George KNOWLES, DOC, further mentioned trade and investment promotion needs to be coordinated, so that the USG speaks with one voice both to the U.S. business community and the host country. Dr. Susanne LOTARSKI, DOC, stated that business opportunities need to be universally available to the U.S. business community. Messrs. O'FARRELL and HUGER agreed that the proposal would be reviewed and that further discussion with DOC would be sought.

Mr. HUGER responded that he sees a significant difference between the proactive targeted investment promotion activities of a private organization staffed and eventually managed by NIS locals and the USFCS investment promotion programs. Mr. HUGER further stated that this type of program has been done successfully by A.I.D. via grants to private organizations and he has viewed the synergy between this type of operation and the promotional efforts of the USFCS. Rather than duplicating efforts, this can be viewed as a private sector effort complementary to direct USG sponsored investment promotion initiatives.

Ms. Priscilla RABB AYRES, STATE, expressed concern whether the TIS truly would be a "private" organization since it would be USG sponsored. Ms. RABB AYRES wished for clarification on the lines of authority in regard to TIS and other USG agencies with which it would potentially interact. Ms. RABB AYRES stressed TIS should not outflank the U.S. private sector, which itself may be interested in providing these types of services. Mr. HUGER responded that this and any other USG financed activities would be under the direction of the U.S. Ambassador and under the A.I.D. Representative as a member of the country team. Mr. HUGER further stated that technical assistance to NIS governments under the project would be provided by contracted private sector professionals in the same way that it is under T.A. projects funded by the USG and other donors around the world. He said that the investment promotion services would, in fact, be helpful to U.S. private investment banks inasmuch as it would lower their transaction costs by doing some of the "due diligence". This would enable them to consider smaller investments which would otherwise be too small to be profitable. Mr. Reginald VAN RAALTE, A.I.D., said that this type of program in Sri Lanka and Morocco has generated demand for the creation of joint-ventures and that even though the USFCS has a very active successful program in Indonesia, the U.S. Ambassador has requested A.I.D. to fund a private sector investment promotion service there.

Ms. Catherine MANN, CEA, felt that there was an inherent conflict of interest in this case where the same organization both advises on legal and policy formulation and solicits investments. Ms. MANN stated that legal codes could be structured in such a way as to favor particular investors. Ms. MANN further stated that in Eastern Europe certain investment deals slated to go forward have been retracted due to "special" arrangements made which governments later felt were inappropriate. Ms. MANN suggested that the policy advice and investment solicitation functions not be implemented by one organization. Mr. HUGER said that although there might be a perception of conflict of interest, there is often quite a bit more credibility in the eyes of local governments to policy changes proposed by organizations which are known to be successful in bringing in foreign investment. To that extent, this project will be different from other USG technical assistance activities. Mr. HUGER also said that most of the technical assistance under this project will be provided by individuals and firms engaged through "buy-ins" to other USG contracts and projects such as those of the A.I.D. Private Enterprise Bureau. Thus, this project design would link technical assistance and investment promotion through the American investment bankers hired to manage TIS, but most of the technical input would come from professionals who are not members of the TIS field staff.

Mr. Michael CASELLA, OMB, stated that there is a danger of having a confusing layering of contractors. He made the point that A.I.D. funds should not be transferred to another agency if they were merely going to contract for the same services for which A.I.D. could contract. He further stated that it should be clear that agencies receiving A.I.D. funding be implementing activities which are additional to an individual agency's on-going activities or in cases where unforeseen events, such as in NIS require funding for activities not anticipated when agency budgets were allocated. Multi-year funding should generally be handled under the implementing agency's own budget request unless it were an unusual program specifically done for A.I.D. Mr. CASELLA also wished to know the life span of the IESC organization. Mr. HUGER responded that the goal would be to create an organization that would exist beyond USG support, an organization which would eventually work on a "fee-for-service" basis and/or establish sufficient credibility to attract funds from other donors in the public or private sectors.

CONCLUSION:

Mr. O'FARRELL concluded the meeting by stating that the project has been driven by the need to "get people on the ground" in the NIS, the first priority of which is placing defense conversion advisors in the defense-oriented cities. Mr. O'FARRELL expressed concern that without the IESC organization in place, we risk marooning the defense conversion advisors in the NIS. The participants were in agreement that the basic ideas behind the project were sound, however, there was some disagreement expressed as to the structure of the project and who should be managing the TIS component.

It was agreed that A.I.D. would proceed with the authorization and funding of: 1) the IESC Resident Advisors on defense conversion under the TIS element of this project; 2) the Consortia Program and NIS Business Information Center of the Department of Commerce; 3) the feasibility studies of the Trade Development Program; 4) the investment missions and related services of the Overseas Private Investment Corporation; and 5) the NIS Small Business program of the Peace Corps. Support for project related training activities of the soon to be created Eurasia Foundation for Technical Assistance and Training will be authorized, but no funds are budgeted for FY 1992.

The Authorization will be amended to cover TIS investment promotion and technical assistance on privatization and U.S. investment when agreement is reached on these issues between A.I.D. and Commerce.

Drafted: EUR/DR/BFTI, MAbramovitz, April 1, 1992

Cleared:	EUR/DR/BFTI, WCraddock <u>(Draft)</u>	Date <u>03/31/92</u>
	EUR/OSA, GHuger <u>(Draft)</u>	Date <u>03/31/92</u>
	EUR/OSA, P'OFarrell, <u>(Draft)</u>	Date <u>04/01/92</u>

**INTER-AGENCY REVIEW
NIS PRIVATE SECTOR INITIATIVES
March 26, 1992, 1:30 p.m., Rm. 4440A NS**

List of Participants

A.I.D.:

EUR/OSA: Paul O'Farrell, Meeting Chairman, 79190
Greg Huger, 77376
John Wiles, 77376
Linda Bernstein, 78674
Tom Miller, 77469

EUR/DR/BFTI: Bill Craddock, 77805
Mark Abramovitz, 76982

EUR/PDP/PD: Adrian deGraffenreid, 76319

EUR/RME/ER: Mohamed Cassam, 71952

OPS/CIS: Barbara Turner, 74784
Laurie Mailloux, 72809

PRE/PD: Reginald van Raalte, 79969

CEA:

Catherine Mann, 395-3375

CIA:

Jim Steiner, 703-482-7695

DOC:

Franklin Vargo, 377-5638
Susanne Lotarski, 377-3150
George Muller, 377-5131
George Knowles, 377-1599

OMB:

Mike Casella, 395-3670

STATE:

D/EEA: Barry Stevenson, 74936
Priscilla Rabb Ayres, 71761

D/CISA: Liz Cheney, 72413

TREASURY:

Daniel Berg, 377-7519

NOT INCLUDED

NOT INCLUDED

NOT INCLUDED

NOT INCLUDED

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AGENCY FOR INTERNATIONAL DEVELOPMENT
ADVICE OF PROGRAM CHANGE

COUNTRY:	New Independent States Regional
PROJECT TITLE:	Private Sector Initiatives
PROJECT NUMBER:	110-0005
FY 1992 CP REFERENCE:	None
APPROPRIATION CATEGORY:	Economic Support Fund (ESF)
LIFE-OF-PROJECT FUNDING:	\$50,000,000 ESF Grant
INTENDED FY 1992 OBLIGATION:	\$12,500,000 ESF Grant

This is to advise that A.I.D. intends to obligate \$12,500,000 for the Private Sector Initiatives Project to begin private sector activities in the new independent states (NIS) of the former Soviet Union as follows: \$4,000,000 in FY 1991 Economic Support Fund (ESF) carryover grant funds originally programmed for Pakistan; and \$8,500,000 in FY 1992 ESF grant funds. This is a new project which was not included in the FY 1992 Congressional Presentation. Life-of-project funding will be \$50,000,000. The life of project will be four years.

The purpose of the Project is to facilitate the economic transformation of new independent states of the former Soviet Union by involving U.S. businesses and institutions in areas where they have a comparative advantage. The initial focus of this project will be the conversion of defense-oriented national and local industries.

Annex: Activity Data Sheet

34.

**AGENCY FOR INTERNATIONAL DEVELOPMENT
ACTIVITY DATA SHEET**

PROGRAM: New Independent States Regional

CP 81-08 (4-88)

TITLE Private Sector Initiatives		FUNDING SOURCE Assistance for Eastern Europe	PROPOSED OBLIGATION (In thousands of dollars)		
			FY 92	12,500	LIFE OF PROJECT (Aurb) 50,000
NUMBER 110-0005	NEW <input checked="" type="checkbox"/>	PRIOR REFERENCE None	INITIAL OBLIGATION FY 92	ESTIMATED FINAL OBLIGATION FY 95	ESTIMATED COMPLETION DATE OF PROJECT FY 96
GRANT <input checked="" type="checkbox"/> LOAN <input type="checkbox"/>	CONTINUING <input type="checkbox"/>				

Purpose: To facilitate the economic transformation of the states of the new independent states (NIS) by involving U.S. businesses and institutions in areas where they have a comparative advantage. The initial focus will be on the conversion of defense-oriented national and local industries of the NIS.

Background: The dramatic collapse of the Soviet Union presents an historic opportunity for a transition to a more peaceful and stable international order and the gradual integration of the NIS into the community of democratic nations. The United States has a vital interest in the success of this transition. Based on a series of action plans developed in conjunction with the January 1992 Coordinating Conference held in Washington, an initial A.I.D. program for the region has been developed. It has six objectives: to encourage free-market economic systems; promote democracy; meet urgent humanitarian needs; convert defense-oriented economies; promote bilateral trade and investment; and increase the efficiency of the energy sector in the new states. This project is a principal component of this program.

The successful economic and political transformation in the NIS will depend upon effective programs to transform NIS assets, whether management and labor skills, scientists, infrastructure, or industrial capacity, into resources and privatized industries that meet civilian needs. The U.S. private sector is a vast source of technology, management knowledge, and entrepreneurial skills which can assist with the modernization, privatization and conversion of industries and the growth of indigenous small businesses in the states of the NIS with which we have established diplomatic relations.

Project Description: This project will work with American businesses, institutions, and investors and their counterparts in the NIS to promote greater U.S. private sector trade and investment and participation in the privatization of the economies of the NIS, including defense conversion and the development of local small businesses. To be successful, U.S. private sector participation requires an economic environment that respects property rights, market competition and the rule of law. The project will work with U.S. businesses and institutions to provide coordinated technical assistance in such areas as privatization and legal structures supporting private property and fostering

competition, skills transfer, commercialization of technologies and production processes.

Experience has also shown that U.S. businesses can benefit from assistance which provides information on trade or investment opportunities, supports pre-feasibility work, or helps establish contacts. This component of the Project will draw from both government agencies such as the Department of Commerce, the Trade Development Program, or the Overseas Private Investment Corporation, and the private sector. Demonstration activities in support of defense conversion may also be undertaken in order to show how governments and businesses can be effective catalysts to conversion and the establishment of viable economic enterprises.

Relationship of the Project to A.I.D. Strategy. This Project responds to A.I.D.'s strategy emphasis on the development of market economies by helping establish the institutions necessary for the development of private business; promotion of bilateral trade and investment by assisting U.S. businesses become more familiar with potential markets and opportunities in the NIS; and on the conversion of defense industries by giving priority to trade or investment activities for these industries. This project will complement economic restructuring and financial sector development activities carried out through other projects.

Host Country and Other Donors. Other donors are still developing programs of assistance along the lines of this Project. A.I.D. will coordinate its assistance in these areas with other donors.

Beneficiaries. Direct beneficiaries will be the small- and medium-sized businesses in the NIS which are enabled to grow and establish long-term trade and investment relationships. Indirect beneficiaries include all citizens of the NIS whose standard of living is improved because of these relationships.

A.I.D.-Financed Inputs

Life of Project (\$000)

Technical Assistance	40,000
Training	5,000
Commodities	5,000
Total:	50,000

U.S. FINANCING (in thousands of dollars)				PRINCIPAL CONTRACTORS OR AGENCIES
	Obligations	Expenditures	Unliquidated	
Through September 30, 1990				U.S. Department of Commerce Trade and Development Program (TDP) Overseas Private Investment Corporation (OPIC) Peace Corps
Estimated Fiscal Year 1991				
Estimated Through September 30, 1991				
Proposed Fiscal Year 1992	12,500	37,500	50,000	

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Independent States Regional
Late Sector Initiatives 110-0005

Clearances:

DAA/EUR: DMerrill DM date: 3/9/92
GC/EUR: HMorris HM date: 3/9/92
R&D/TF: BTurner (draft) date: 02/21/92
EUR/OSA: PO'Farrell (draft) date: 02/18/92 3/9/92
EUR/DR: KSchwartz (draft) date: 02/03/92
EUR/PDP: SSmith (draft) date: 02/05/92
GC/LP: RLester (draft) date: 02/05/92
EUR/PD: RFanale (draft) date: 02/05/92
EUR/RME/FM: BBrockie (draft) date: 02/04/92
FA/B: LLeDuc (draft) date: 02/05/92
EUR/OSA: JWiles (draft) date: 02/03/92
EUR/OSA: EKvitashvili (draft) date: 02/03/92

ST:D/EEA: CRufenacht: (draft) date: 02/25/92
ST:EUR/ISCA/E: KVolker (draft) date: 02/25/92

drafted: EUR/DR: KSchwartz/RAnthony/wCraddock/RSheppard,
1/31/92, R2/11/92: 79134

EUR/PDP: EBailly: 76389: CN Coordination

cc-FA/B: JPainter

03/09/92



REC'D S/S -IRM/RMD

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U.S. AGENCY FOR '92 MAR 30 P4:31 REC'D MAR 23 A 10:40
INTERNATIONAL
DEVELOPMENT S/S *P. 24*



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TO: The Deputy Secretary *[Signature]*
THROUGH: T - Reginald Bartholomeu *[Signature]*
DA/A.I.D., Mark L. Edelman *[Signature]*
FROM: PM - Richard A. Clarke *[Signature]*
DD/POL, Larry Saiers *[Signature]*
SUBJECT: Use of Foreign Assistance Act Funds for Procurement
in Former Soviet Republics

ISSUES FOR DECISION

Whether to conclude that certain former Soviet Republics should no longer be considered as "non-Free World" countries for purposes of permitting foreign assistance procurement from them under a 1961 Presidential determination.

ESSENTIAL FACTORS

On October 31, 1991, you approved a determination that Eastern European countries and Mongolia should no longer be considered as "non-Free World" countries for purposes of permitting foreign assistance procurement from them under a 1961 determination by President Kennedy. The decision memorandum is attached at Tab A.

Your October determination recognized that certain countries, including the Soviet Union, would continue to be excluded from procurement eligibility. (The other countries were Afghanistan, Libya, Vietnam, Cuba, Cambodia, Laos, Iraq, Iran, North Korea, Syria, and the People's Republic of China). Your determination also recognized that, if warranted by changed conditions with respect to any of these countries, A.I.D. would seek a similar foreign policy determination from the Department.

In view of the break-up of the Soviet Union, the U.S. Government has taken a number of steps to support a peaceful transition toward democratic institutions and market economies in the former Soviet Republics. The President on December 25th proposed conducting full diplomatic relations with Russia, Ukraine, Armenia, Byelarus, Kazakhstan, and Kyrgyzstan; and assistance activities (primarily technical and humanitarian

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assistance) have been initiated by A.I.D. and the Congress notified accordingly. Those actions are summarized in the Memorandum attached at Tab B. More recently, the President decided similarly to move ahead regarding diplomatic relations with Moldova, Turkmenistan, Uzbekistan, Tajikistan, and Azerbaijan. In this context it no longer makes sense to exclude these eleven Republics from foreign assistance procurement eligibility.

RECOMMENDATIONS

That you conclude that the ¹²~~eleven~~ former Soviet Republics noted above should no longer be considered as "non-Free World" countries for the purpose of implementing President Kennedy's determination regarding Section 604(a).

MAR 30 1992

APPROVE *[Signature]* DISAPPROVE _____

DATE _____ DATE _____

That this determination will automatically extend to Georgia at such time as the United States establishes full diplomatic relations with it. *Include Georgia*

APPROVE _____ DISAPPROVE *[Signature]*

DATE _____ DATE _____

Attachments:

- TAB A - Action Memorandum for the Deputy Secretary
Approved 10/31/91
- TAB B - Action Memorandum for the A.I.D. Administrator
Approved 1/18/92

GC/LP:RLester _____ (Draft)	Date: <u>2/19/92</u>
A-GC:TGeiger _____ (Draft)	Date: <u>2/20/92</u>
EUR/OSA:PO'Farrell _____ (Draft)	Date: <u>2/20/92</u>
ENE/EUR:DMerrill _____ (Draft)	Date: <u>2/20/92</u>
GC/EUR:HMorris _____ (Draft)	Date: <u>2/20/92</u>
AA/R&D:RBissell _____ (Draft)	Date: <u>2/21/92</u>
STATE/L/EUR:TBuchwald _____ (Draft)	Date: <u>2/28/92</u>
STATE/EUR/ISCA/ECON:KVolker _____ (Draft)	Date: <u>3/04/92</u>
STATE/D/EEA:CRufenacht <u>CR</u>	Date: <u>3/5/92</u>
STATE/S/P:JHannah <u>(draft) JS</u>	Date: <u>3/10/92</u>
STATE/P:C.L.VanVoorst <u>CV</u>	Date: <u>3/11/92</u>
STATE/C:RWilson _____	Date: <u>3/10/92</u>
STATE/EB/IFD/ODF:LMoriarty <u>LM</u>	Date: <u>3/11/92</u>
STATE:H:CRAETHER <u>map for</u>	

Drafter:GC/CCM:KFries:DGC:RMeighan:FAAFP:2/7/92:Ext.78332:Revised 2/18/92:Revised 3/2/92 *95*

TAB-A

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TMA
TMB
PM
RF/rlw

ACTION MEMORANDUM

~~LIMITED OFFICIAL USE~~
(decontrol 10-1-92)

Q. 10.29
Decontrolled Funds (draft)
11/27/41

TO: The Deputy Secretary

THROUGH: T-Reginald Bartholomew
DA/A.I.D., Mark L. Edel *Bartholomew*

FROM: PM-William F. Rops, Acting *Rops*
D/POL, Larry Sifers, Acting *Sifers*

SUBJECT: Use of Foreign Assistance Act Funds for Procurement
in Eastern European Countries and Mongolia

4
OCT 1961
ISE
HAS SEEN

ISSUES FOR DECISION

Whether to conclude that certain countries should be considered as "Free World" countries for purposes of permitting foreign assistance procurement from them under a 1961 Presidential determination.

ESSENTIAL FACTORS

Section 604(a) of the Foreign Assistance Act of 1961 prohibits use of foreign assistance funds for procurement outside the United States unless the President determines that "such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base" On October 18, 1961, President Kennedy made a Determination pursuant to Section 604(a) to permit procurement from sources outside the United States where the procurement is less costly than procurement from United States sources. This 1961 Determination authorized procurement from "less developed countries" generally and, under specific circumstances, from selected industrialized countries. (See Tab A)

This prohibition covers other Foreign Assistance Act procurement as well as A.I.D.-financed procurement, ~~and~~ military and counter-terrorism procurement. In practice, however, it has at most a negligible effect in these other areas.

~~LIMITED OFFICIAL USE~~

Decontrolled
Kerth E. Fries
11/27/41

President Kennedy specified, however, that "Procurement outside the United States shall be from Free World sources, in any case." "Free World" has long been construed by A.I.D. to exclude all countries listed in the Foreign Assistance Act as "communist" (Section 620(f)), including the People's Republic of China, Cuba, Vietnam, the Soviet Union, the Baltic Republics, Mongolia, and all the countries of Eastern Europe, with the exception of Yugoslavia.

The characterization of a number of these countries as "non-Free World" for purposes of Section 604(a) no longer makes sense in view of their status as emerging democracies and recipients of A.I.D. assistance. In this category we place Poland, Hungary, Czech and Slovak Federal Republic, Bulgaria, Romania, Albania, Mongolia, and now the Baltic Republics. We recommend that you concur that these countries should no longer be considered as "non-Free World" within the meaning of President Kennedy's determination. This will allow them to participate as eligible sources for A.I.D.-financed procurement, as appropriate.

A.I.D. would continue to exclude certain countries from procurement eligibility because of their status under the anti-terrorism statutes and for other foreign policy reasons. The countries that would remain excluded are Afghanistan, Libya, the Soviet Union, Vietnam, Cuba, Cambodia, Laos, Iraq, Iran, North Korea, Syria, and the People's Republic of China. If warranted by changed conditions with respect to any of these countries, A.I.D. would seek a similar foreign policy determination from the Department, at the level of Under Secretary for International Security Affairs, with respect to the procurement eligibility of that country.

President Bush has delegated to the Secretary of State the authority to make determinations under Section 604(a) with respect to "procurement under Chapter 1 of Part I and Chapter 4 of Part II of the Act" (FAA Development Assistance and Economic Support Fund accounts). (See Executive Order 12738 of December 14, 1990, Section 3(3), amending Executive Order 12163). Such authority has been redelegated to the Under Secretary for International Security Affairs with respect to programs under Part II of the Act (State Dept. Delegation of Authority No. 145, Section 1(a)(1)), and may also be exercised by you (Section 4(d)). Although that delegation is not, technically, needed in order for you to agree with our proposed interpretation of the existing Presidential Determination, it is consistent with such action.

Declassified
Kenneth C. Foss
1/27/91

RECOMMENDATIONS

That you conclude that Poland, Hungary, Czech and Slovak Federal Republic, Bulgaria, Romania, Albania, Lithuania, Latvia, Estonia and Mongolia should no longer be considered as "non-Free World" countries for purpose of implementing President Kennedy's determination regarding Section 604(a).

APPROVE DISAPPROVE

OCT 31 1981

That you agree that future decisions about whether a newly emerging democracy should be considered part of the "Free World" for purposes of Section 604(a) may be made by the Under Secretary for International Security Affairs.

APPROVE DISAPPROVE

OCT 31 1981

Attachment:

TAB - Presidential Determination Under
Section 604(a) Dated 10/18/61

Clearances:

State/D/EEA:RBarry (Draft)	date	9/30/91
State/L/PH:ECummings(Draft) per S.Murphy	date	9/25/91
State/S/CT:MKraft (Draft)	date	10/01/91
State/D/P&R:RBauerlein (Draft)	date	9/30/91
State/EUR/EEY:SByrnes (Draft)	date	10/15/91
State/EAP/CH:RPerito (Draft)	date	10/01/91
State/EB/IFD/ODF,LMoriarty (Draft)	date	10/01/91
State/INM:JVanWert (Draft)	date	10/01/91
AID/GC:(Acting):TGeiger (Draft)	date	9/27/91
AID/AA/ENE:CAdelean (Draft)	date	10/15/91
AID/AA/FA,(Acting):JOWens (Draft)	date	9/25/91
AID/MS/PPE:JMURPHY (Draft)	date	9/25/91
E:RFauver		

cc (w/attachment): A/A.I.D., Ronald W. Roskens

GC/CCM:KFries:cac:1/14/91:PDFAAP(WordPerfect):EXT. 78332

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c42

Title 3—THE PRESIDENT

Memorandum of October 10, 1961

DETERMINATION UNDER SECTION 604(a) OF THE FOREIGN ASSISTANCE ACT OF 1961

Memorandum for the Secretary of State

The White House

Washington, October 11, 1961

Section 604(a) of the Foreign Assistance Act requires that:

Funds made available under this Act may be used for procurement outside the United States only if the President determines that such procurement will be: (1) such as to result in a net gain to the economy of the United States or the industrial mobilization base, with special reference to any area of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic or other advantages to the United States of the early procurement outside the United States, and only if the price of any commodity procured is not more than the market price prevailing in the United States at the time of procurement, adjusted for discounts in the case of commodities of unusual quality, and terms of payment.

This section requires that procurement outside the United States using funds available under the Foreign Assistance Act of 1961 may be undertaken only if I determine that, on balance, there is no net detriment to the United States. I am in clear and fundamental agreement with this principle, and that aid for foreign policy objectives which I have previously endorsed, including my passage on the balance of payments of January 8, 1961, already substantially provide this assurance.

As I indicated in that message, "our foreign economic assistance programs are not being administered in such a way as to place primary emphasis on the procurement of American goods... This restriction will be maintained until reasonable overall equilibrium has been achieved." Under this policy, which is restated in form by my determination below, the proposed bulk of foreign assistance procurement will be made in the United States. The security for this is clear; such procurement will contribute generally towards reducing our balance of payments difficulties, and also help stimulate interest in labor surplus areas.

On the other hand, even trade and foreign policy objectives and assistance program goals require limited amounts of procurement outside the United States. Some commodities needed in our assistance programs are not produced in the United States or are not available in the quantities required at the time needed. Procurement from less developed countries, in particular, is needed to carry out projects important to our national security.

Therefore, I hereby direct that funds made available under the Foreign Assistance Act of 1961 for non-military programs may be used for procurement from the following countries: Australia, Austria, Belgium, Canada, Denmark, France, Germany, Hong Kong, Italy, Japan, Luxembourg, Monaco, Netherlands, New Zealand, Norway, South Africa, Sweden, Switzerland, and United Kingdom. This authorization by the Secretary of State, however, that excludes procurement in those countries would normally exist inasmuch as US foreign policy objectives and the objectives of the foreign assistance program, the Secretary of State may authorize specific exceptions which involve procurement in the excluded countries.

I also hereby direct that funds made available under the Foreign Assistance Act of 1961 for military assistance programs may be used for procurement outside the United States except to procure items required for military assistance which are not produced in the United States to make local purchases for administrative purposes and to use local currency available for military assistance purposes. This authorization by the Secretary of Defense, that excludes procurement outside the United States would result in severe effects upon the economy of the United States or the industrial mobilization base, with special reference to any area of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic and other advantages of the early procurement outside the United States. Procurement outside the United States shall be from Free World sources, in any case. The effective date of this determination shall be September 30, 1961.

This determination shall be printed in the Federal Register.

relax of Defense Secretary, that excludes procurement outside the United States would seriously impact attainment of military assistance program objectives. The Secretary of Defense may authorize exceptions to these limitations.

In the event that changes in foreign conditions warrant, the Secretary of State in the case of non-military assistance, and the Secretary of Defense in the case of military assistance, shall consult with the Secretary of the Treasury, and other appropriate agencies, and recommend modifications as may be appropriate in policies for procurement using funds made available under the Foreign Assistance Act of 1961. In the event that procurement outside the United States under the above conditions seriously threaten to effect adversely the industrial mobilization base or the economy of an area of labor surplus, the Secretary of State in the case of non-military assistance and the Secretary of Defense in the case of military assistance, shall consult with the Secretary of Commerce and other appropriate agencies and recommend such action as may be appropriate.

For the reasons and under the conditions stated above, and pursuant to the requirements of Section 604(a) of the Foreign Assistance Act of 1961 (PL 87-195), I hereby determine that the use of funds made available under the Act for procurement from sources outside the United States will not result in severe effects upon the economy of the United States or the industrial mobilization base, with special reference to any area of labor surplus or to the net position of the United States in its balance of payments with the rest of the world, which outweigh the economic and other advantages of the early procurement outside the United States. Procurement outside the United States shall be from Free World sources, in any case. The effective date of this determination shall be September 30, 1961.

This determination shall be printed in the Federal Register.

JOHN F. KENNEDY

772 Doc 61-1716; Final Vol. 2, 601; (4:4 pm)

267.R.10543

Nov 9, 1961



TAB-B

January 18, 1992

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

ACTION MEMORANDUM FOR THE ADMINISTRATOR

THRU: Acting, AA/OPS, Howard M. Fry *mf*

FROM: AA/EUR, Carol C. Adelman *CA*

SUBJECT: Assistance to the Independent States
of the former Soviet Union: Statutory
Checklist

Assistant
Administrator
for Europe

Problem: To take into consideration relevant statutory requirements in light of whether ESF funds (and DA funds, to the extent such funding may be made available in the future) should be used to provide technical and other assistance to support the transition of the newly independent states of the former Soviet Union into democratic, free-market societies, and to help meet the energy needs of these societies.

Discussion: The former Soviet Union has undergone revolutionary changes within the past year which have resulted in the creation of twelve independent states, most of whom are loosely associated in a new Commonwealth of Independent States. The United States Government has established diplomatic relations with six of the former republics of the Soviet Union, namely: Armenia, Byelarus, Kazakhstan, Kyrgyzstan, Russia and Ukraine.

On September 10, 1991, the Secretary of State signed a determination, pursuant to §620(f)(2) of the Foreign Assistance Act (FAA) of 1961, as amended, permitting assistance to the Soviet Union. (See Tab A.) Pursuant to that determination, two Congressional Notifications, both of which expired on December 20, 1991, were sent to Congress describing two proposed projects to be implemented by A.I.D. (See Tab B.) These projects have been designed (1) to encourage the transformation of these republics into democratic,

(UNCLASSIFIED WITHOUT CLASSIFIED ATTACHMENTS)

market-based economies, and (2) to improve energy efficiency and encourage energy market reforms in these societies. ESF funds of \$3.2 million for the Democratic and Economic Initiatives Project and \$1.8 million for the Energy Efficiency and Market Reform Project are now pending authorization and obligation.

Although certain republics of the former Soviet Union would normally be prohibited from receiving assistance since each such republics are indebted to certain U.S. citizens, the State Department plans to issue on January 18, 1992 a determination pursuant to §620(c) of the FAA which would permit assistance to flow to these republics despite this fact. (This determination shall provide, in substance, that failing to provide assistance to these newly formed states is contrary to the national security interest of the United States.) Despite this determination by the State Department, however, certain factors must be "taken into consideration" by you before we may proceed with obligating funds for these two projects.

Please note that since the source of funding for these two proposed projects is the ESF account, the "notwithstanding any other provision of law" language is not available. (This language has been used in the past to permit assistance to proceed in Eastern European countries under the 1991 Appropriation Act despite prohibitions on assistance that would otherwise apply.) Therefore, certain factors must be "taken into consideration" by you before these proposed projects may be obligated from the ESF account (or the DA account, if such funding is later made available.) In fact, you normally take into consideration a number of conditions, to the extent that they may exist, on an annual basis before approving an allocation of assistance to specific countries. However, in light of the fact that the Coordinator's Office wishes to proceed with implementing the proposed projects on an expedited basis, we are presenting certain issues for your consideration at this time on an ad hoc basis.

In order to ensure that all relevant statutory requirements have been met, A.I.D. has developed a "country checklist", describing such requirements with particularity. The items on this checklist have been responded to in substance by the State Department, and its memorandum is attached hereto as Tab C. In the case of the states of the former Soviet Union, only two considerations are relevant in considering whether to provide assistance, and are discussed below. Please bear in mind, however, that statutorily mandated considerations in providing foreign assistance need only be "take into account". The mere existence of such factual considerations does not, in and of itself, prohibit assistance to the country in question.

(UNCLASSIFIED WITHOUT CLASSIFIED ATTACHMENTS)

(1) Section 620(1): Failure to enter into an OPIC Guaranty Agreement: As of this date, OPIC is in the process of initiating negotiations with each of the individual republics to whom we plan to render assistance to enter into OPIC investment guarantee agreements. Although such negotiations are in the process of being initiated, they have not yet been finalized and, to date, OPIC has not concluded any bilateral agreements with these new republics. Thus, in light of the fact that this process of negotiation has been initiated but not concluded, we request you to take this into consideration and permit assistance to move forward as planned.

(2) Section 620(u): U.N. Dues: According to U.N. records dated October 31, 1991, the combined arrearage of the U.S.S.R., Byelarus, and Ukraine totals \$196,376,749.00. Dues owed to the U.N. regular budget are as follows: U.S.S.R. (\$46,019,313); Byelarus (\$1,520,157); Ukraine (\$5,758,172). Further, dues are owed for the maintenance of U.N. peace-keeping forces in the following amounts: U.S.S.R. (\$126,773,350); Byelarus (\$5,116,578); Ukraine (\$11,189,179). Thus, the subtotal owed by the CIS for outstanding dues to the U.N. regular budget is \$53,297,642, and for the U.N. peacekeeping forces is \$143,079,107. Payment of this arrearage in U.N. dues is expected although, to our knowledge, specific arrangements to pay have not yet been made. It should also be borne in mind that ESF (and DA) funded assistance to Albania was allowed to proceed, despite its similar arrearages in U.N. dues, based on your consideration of this factor. Therefore, we request you to take the U.N. dues arrearage of these former republics of the Soviet Union into account, and urge you to permit the planned assistance to be implemented as expeditiously as possible.

Recommendation: That you, by your signature below, take into consideration the circumstances described above, and approve the use of ESF funds (and DA funds to the extent necessary in the future), subject to the availability of such funds, for assistance to the six states named above. Such assistance will be authorized by separate action, and shall be subject to the Secretary's determinations under §§620(c) and (f)(2) of the FAA.

Approved: 

Disapproved: _____

Date: 1-16-92

(UNCLASSIFIED WITHOUT CLASSIFIED ATTACHMENTS)

Attachments:

- TAB A - Section 620(f)(2) determination by the Secretary
 TAB B - Congressional Notifications
 TAB C - State Memorandum dated 1/17/92 re: Statutory Checklist

Clearances:

GC/LP: RLester	(phone)	Date: 1/16/92
AA/LEG: RRandlett	(draft)	Date: 1/15/92
ENE/EUR: DMerrill	(draft)	Date: 1/17/92
EUR.OSA: PO'Farrell	(draft)	Date: 1/15/92
GC/EUR: HMorris	(draft)	Date: 1/14/92
STATE/EUR/ISCA/ECON: KVolker	(draft)	Date: 1/16/92
STATE/D/EEA: CRufenacht	(subst)	Date: 1/16/92
AA/R&D: RBissell	<i>[Signature]</i>	Date: 1/18/92

Drafted: GC/EUR, Rumu Sarkar: 1/14/92

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- 47'

INITIAL ENVIRONMENTAL EXAMINATION

- (A) PROGRAM COUNTRY: NEW INDEPENDENT STATES
- (B) ACTIVITY: PRIVATE SECTOR INITIATIVES
PROJECT NO. 110-0001
- (C) FUNDING: \$ 50 MILLION (ESF)
- (D) PERIOD OF FUNDING: FY 1992 TO FY 1996
- (E) STATEMENT PREPARED BY: GREGORY F. HUGER, EUR/OSA
- (F) ENVIRONMENTAL ACTION RECOMMENDED: Categorical
Exclusion under A.I.D. Regulation Environmental
Procedures 22CFR Part 216, Sections 216.2 (c) (1) (ii)
and 216.2 (c) (2) (i)

(G) DECISION OF ENVIRONMENTAL OFFICER

APPROVED: _____

DISAPPROVED: _____

DATE: _____

(H) DECISION OF DIRECTOR/NIS TASK FORCE

APPROVED: _____

DISAPPROVED: _____

DATE: _____

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EXAMINATION OF THE NATURE, SCOPE AND MAGNITUDE OF THE ENVIRONMENTAL IMPACT

A. DESCRIPTION OF THE PROGRAM:

This project provides training and technical assistance and business support to institutions, individuals and private voluntary organizations to support efforts to promote private enterprise. There is no impact on the environment as far as A.I.D. managed activities are concerned.

B. RECOMMENDED ENVIRONMENTAL ACTION:

Because the project provides only training and technical assistance and studies, a categorical exclusion from A.I.D.'s Initial Environmental Examination, Environmental Assessment and Environmental Impact Summary requirements is proposed. This proposal is in accordance with A.I.D. Environmental Procedures 22CFR Part 216, Section 216.2 (c) (1) (ii) which generally provides for a categorical exclusion in situations where the purpose of the project does not require A.I.D. to have "knowledge of or control over, the details of the specific activities that have an effect on the environment for which financing is provided by A.I.D." Specifically, this activity is categorically excluded under Section 216.2 (c) (2) (i) for education and technical assistance.

ORIG PACKAGE RECEIPTED TO EUR-NILES
COPIES TO:

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L



United States Department of State

162/4

EXECUTIVE SECRETARIAT

Washington, D. C. 20520

1992 FEB -5 A 8:10

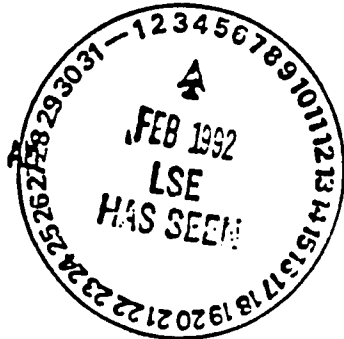
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FEB 3 1992

ACTION MEMORANDUM *we 2/4*
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9202390

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AID TO: D - Mr. Eagleburger

RF
cah FROM: EUR - Thomas M.T. Niles
H - Janet G. Mullins *ORKM*

SUBJECT: Circular 175: Request for Blanket Authority to Negotiate and Conclude Assistance Agreements with Former Soviet Republics

ISSUE FOR DECISION

Whether to authorize the negotiation and conclusion of bilateral agreements as appropriate with the former Soviet republics in connection with the provision of assistance.

ESSENTIAL FACTORS

We are proceeding quickly with assistance programs for several of the former Soviet republics. We are moving forward with \$5 million of assistance funded from reprogrammed FY-91 ESF, a \$165 million USDA food aid program, and humanitarian assistance programs under a series of DOD authorities. A more extensive technical assistance program is in preparation and additional assistance will also follow.

A.I.D. believes, and we concur, that we need to obtain agreements with the concerned republics conferring certain essential legal protections for the ESF program. Under the proposed agreements, the republics would:

- provide tax and customs exemptions for U.S.-provided commodities or equipment, and for U.S. nongovernmental personnel responsible for implementing the assistance programs;
- provide immunity for USG assistance personnel from criminal jurisdiction of local courts, and from civil jurisdiction of local courts for official acts;

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- allow USG representatives to inspect utilization of the assistance, and to inspect or audit any records or other documentation in connection with the assistance, wherever such records are located;
- commit to use commodities, supplies or other property solely for agreed-upon purposes;
- in cases in which the republic is responsible for items being used for other purposes, to refund their value to the USG (if the USG deems doing so appropriate); and
- provide exemptions for aircraft and vessels from landing fees, navigation charges, port charges, tolls, and similar charges.

A draft agreement is attached at Tab A. The text would cover assistance provided by various USG agencies, including USDA and DOD as well as A.I.D. We believe application of these protections to the USDA and DOD-provided assistance is prudent given their scope and visibility, and the inter-related nature of assistance efforts being implemented by the various USG agencies.

The draft text provides that we may need to conclude further, more specific agreements in connection with particular assistance activities. In particular, under the Food-for-Progress and section 416(b) programs, USDA will need to conclude separate agreements. This language may also be useful if we later decide to conclude formal economic and technical assistance agreements with respect to A.I.D.-administered programs for the republics. With this in mind, the draft text provides that the provisions of these specific agreements will control in the event their terms conflict. (The need for any additional Circular 175 authority would be considered on a case-by-case basis).

We will continue to consult with the Hill regarding our assistance efforts for the former Soviet republics. We do not believe that specific consultations regarding these agreements are needed at this time. We would, however, inform the staff of relevant committees of our intent to seek such agreements. As we would emphasize to the republics in the course of negotiations, the conclusion of these agreements would not itself commit the United States to provide assistance. After entry into force, each agreement will be reported to the appropriate committees of Congress under the usual Case Act procedures, and H will coordinate any necessary Hill briefings.

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- 3 -

The proposed agreements do not require environmental documentation under either the National Environmental Policy Act of 1969, 42 U.S.C. 4321, or Executive Order No. 12114 (January 4, 1979). The negotiation and conclusion of these agreements will not entail personnel or funding resource requirements for the Department of State.

If you approve, Rich Armitage would be able to begin the process of negotiating these agreements as appropriate during his forthcoming trips to the former Soviet Union.

RECOMMENDATION

That you authorize D/CISA (or, as appropriate, EUR or the relevant post) to negotiate and conclude an agreement with each of the republics based on the text attached at Tab A. Any changes from that text shall be subject to the concurrence of L, EUR and D/EEA (which will obtain clearances from A.I.D. and co-ordinate as appropriate with other agencies). Negotiation and conclusion of agreements with Azerbaijan, Georgia, Moldova, Tajikistan, Turkmenistan, and Uzbekistan will not commence until specifically authorized by you.

FEB 04 1992

Approve MR Disapprove _____

** without limitation*

Attachments:

Tab A - Draft Agreement

Tab B - Memorandum of Law

shown in Rec,

* WITHOUT LIMITATION SHOWN IN REC.

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- 4 -

Drafted: AID/GC:HMorris::L/EUR:TFBuchwald^{TB}
X-6295 1/21/92

Cleared:

D/EEA - Mr. Lehovicht^{TB}
P - Ms. van Voorst^{TB}
EUR/ISCA - Ms. Griffiths
M/FMP - Ms. Kent
D/CISA - Mr. Nelson
L/SFP - Ms. Jacobson
S/P - Ms. Heslin
DOD - Mr. Wolthius
USDA - Mr. Goldthwait
PM - Mr. Martel

H - Mr. Bradtke^{TB}
C - Mr. Wilson
M - Mr. Johnson
L - Mr. Kreczko
L/PM - Mr. Murphy
L/T - Mr. Taft
AID - Mr. Roskens
AID/EUR - Mr. Merrill
AID/AA/R&D Mr. Bissel

Doc. No. 1415 (30)

UNCLASSIFIED

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MEMORANDUM OF LAW

Subject: Circular 175: Request for Blanket Authority for Negotiation and Conclusion of Assistance Agreements with the Twelve Former Soviet Republics

The accompanying Circular 175 action memorandum requests blanket authority to negotiate and conclude agreements with each of the twelve former Soviet republics (the "countries") to obtain certain legal protections in connection with U.S. assistance programs.

The proposed agreements do not imply or promise any particular level of assistance. Instead, they establish terms and conditions regarding assistance that may be provided by the U.S. government in accordance with applicable laws and regulations. These terms and conditions include tax and customs exemptions for U.S.-provided commodities or equipment, and for nongovernmental personnel responsible for implementing assistance programs; provision to USG assistance personnel of status equivalent to that accorded administrative and technical staff under the Vienna Convention on Diplomatic Relations; authorization by each of the countries for USG representatives to inspect utilization of the assistance, and to inspect or audit any records or other documentation in connection with the assistance, wherever such records are located; commitment by each of the countries to use commodities, supplies or other property solely for agreed-upon purposes; in cases in which the republic is responsible for items being used for other purposes, to refund their value to the USG (if the USG deems doing so appropriate); and provide exemptions for aircraft and vessels from landing fees, navigation charges, port charges, tolls, and similar charges.

Legal authority to negotiate and conclude the agreements is provided by the President's constitutional responsibilities for the conduct of foreign relations (Article II, Section I, Clause I) and the Secretary of State's authority for the day-to-day conduct of foreign relations (22 U.S.C. section 2656).

In addition, with respect to assistance provided under the Foreign Assistance Act of 1961, as amended, section 635(b) of that Act provides that the President may make and perform agreements with any friendly government or government agency "in furtherance of the purposes and within the limitations of this Act." This authority has been delegated to the Secretary of State by Executive Order No. 12163 (Sept. 29, 1979), as amended.

For the foregoing reasons, there is no legal objection to the proposed negotiation and conclusion of executive agreements with each of the twelve countries as described in the accompanying action memorandum. Any changes in that text shall be subject to the concurrence of L, EUR and D/EEA.

Todd F. Buchwald

Todd F. Buchwald, Acting
Assistant Legal Adviser for
European and Canadian Affairs

X-6295 1/21/92
cleared: L/T:GTaft
L/SFP:LJacobson
L/PM:SMurphy
Doc. No. 1415 (33)

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF _____
REGARDING COOPERATION TO FACILITATE
THE PROVISION OF ASSISTANCE

The Government of the United States of America and the Government of _____:

Recognizing the interests of the Government of the United States of America and the Government of _____ in cooperating to facilitate the provision of humanitarian and technical economic assistance to benefit the people of _____; and

Recognizing the need to make certain practical arrangements to help ensure the effectiveness of that assistance;

Have agreed as follows:

ARTICLE I

TAXES AND OTHER CHARGES

(a) Commodities, supplies or other property provided or utilized in connection with United States assistance programs may be imported into, exported from, or used in _____ free from any tariffs, dues, customs duties, import taxes, and other similar taxes or charges imposed by _____, or any subdivision thereof.

(b) Any United States Government or United States private organization that has responsibility for implementing United States assistance programs, and any personnel of such private organization who are not nationals of or ordinarily resident in _____ and that are present in _____ in connection with such programs, shall be exempt from (1) any income, social security or other taxes imposed by _____, or any subdivision thereof, regarding income received in connection with the implementation of United States assistance programs, and (2) the payment of any tariffs, dues, customs duties, import taxes, and other similar taxes or charges upon personal or household goods imported into, exported from, or used in _____ for the personal use of such personnel or members of their families.

(c) The access and movement of aircraft and vessels operated by or for the Government of the United States of America in connection with United States assistance programs in _____ shall be free of landing fees, navigation charges, port charges, tolls and similar charges by _____, or any subdivision thereof.

ARTICLE II

STATUS OF PERSONNEL

Civilian and military personnel of the United States Government present in _____ in connection with United States assistance programs shall be accorded status equivalent to that accorded administrative and technical staff personnel under the Vienna Convention on Diplomatic Relations of April 18, 1961.

ARTICLE III

INSPECTION AND AUDIT

Upon reasonable request, representatives of the Government of the United States of America may examine the utilization of any commodities, supplies, other property, or services provided under United States assistance programs at sites of their location or use; and may inspect or audit any records or other documentation in connection with the assistance wherever such records or documentation are located during the period in which the United States provides assistance to _____ and for three years thereafter.

ARTICLE IV

USE OF ASSISTANCE

Any commodities, supplies, or other property provided under United States assistance programs will be used solely for the purposes agreed upon between the Governments of the United States of America and _____. If use of any commodities, supplies or other property occurs for purposes other than those agreed upon under such programs, which the Government of the United States of America determines could reasonably have been prevented by appropriate action of the Government of _____, the Government of _____ upon request shall refund in United States dollars to the Government of the United States of America the amount disbursed for such commodities, supplies, or other property. The Government of the United States of America may, in its discretion, make available the amount refunded to finance other costs of the assistance activity involved.

ARTICLE V

OTHER AGREEMENTS

The Government of the United States of America and the Government of _____ recognize that further arrangements or agreements may be necessary or desirable with respect to particular United States assistance activities. In case of any inconsistency between this Agreement and any such further written agreements, the provisions of such further written agreements shall prevail. Nothing in this Agreement shall be construed to derogate from the privileges and immunities granted to any personnel under other agreements.

ARTICLE VI

ENTRY INTO FORCE

This Agreement shall enter into force upon signature by both parties.

DONE AT _____, this ____ day of _____, 1992.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

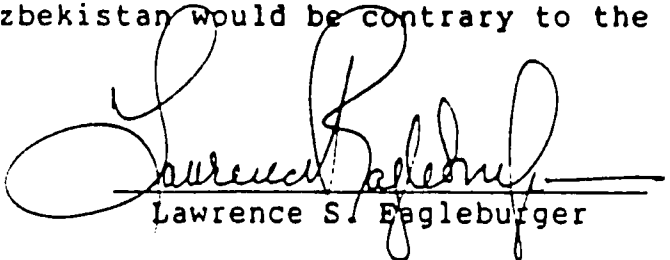
FOR THE GOVERNMENT OF
[NAME]:

SB

Finding under Section 620(c) of the
Foreign Assistance Act of 1961, as amended

Pursuant to section 620(c) of the Foreign Assistance Act of 1961, as amended (the "Act"), section 1-201(a)(12) of Executive Order 12163, as amended, and section 4(d) of State Department Delegation of Authority No. 145, as amended, I hereby find that application of the restriction contained in section 620(c) of the Act with respect to Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan would be contrary to the national security.

January 20, 1992
Date


Lawrence S. Eagleburger



AGENCY FOR
INTERNATIONAL
DEVELOPMENT

TAB I

MAR 25 1992

SECRET
MAR 25 1992

~~SECRET~~ ACTION

ACTION MEMORANDUM FOR THE ADMINISTRATOR

THRU: AA/OPS, Scott Spangler *SS*
FROM: AA/R&D, Richard Bissell *RB*
 AA/EUR, David N. Merrill *DM*
SUBJECT: Assistance to the Newly Independent States of the Former Soviet Union: Statutory Checklist

Problem: To take into consideration relevant statutory requirements in light of whether ESF funds (and DA funds, to the extent such funding may be made available in the future) should be used to provide technical and other assistance to support the transition of newly independent states of the former Soviet Union into democratic, free-market societies.

Discussion: A memorandum to you from the AA/EUR dated January 18, 1992 requested you to "take into account" certain statutorily mandated considerations before assistance to the newly independent states of the former Soviet Union could be authorized. Your consideration was limited, at that time, to the following republics of the former Soviet Union with whom the U.S. was establishing diplomatic relations: Armenia, Byelarus, Kazakhstan, Kyrgyzstan, Russia and the Ukraine. The State Department is now establishing full diplomatic relations with the remaining republics of the former Soviet Union (with the exception of Georgia), namely, Moldova, Azerbaijan, Tajikistan, Turkmenistan, and Uzbekistan. Thus, once again, we request that you take into consideration the factors described below before assistance to these republics may be authorized.

On September 10, 1991, the Secretary of State signed a determination, pursuant to §620(f)(2) of the Foreign Assistance Act (FAA) of 1961, as amended, permitting assistance to flow to the Soviet Union. (See Tab A.) Additionally, Deputy Secretary Eagleburger made a determination, dated January 20, 1992, under Section 620(c) of the FAA which permits assistance to the republics notwithstanding

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certain indebtedness to U.S. citizens that would otherwise prohibit these republics from receiving foreign assistance. This determination provides, in substance, that failing to provide assistance to these newly formed states is contrary to the national security of the United States. (See Tab B.) Pursuant to these determinations, assistance to the individual republics that formerly constituted the Soviet Union may be permitted provided that other statutory requirements are satisfactorily met.

Assistance to the republics is now being considered in the following areas: (1) increasing the levels of assistance for the previously authorized Democratic and Economic Initiative Project and the Energy Efficiency and Market Reform Project as well as developing activities in (2) private sector initiatives, (3) democratic pluralism initiatives, (4) housing sector reform, (5) health care improvement, (6) food systems restructuring, (7) economic restructuring and financial sector reform, and finally, (8) making an ESF grant to the Eurasia Foundation. All of this proposed assistance is now pending final Congressional notification and clearance.

Although we are working to include "notwithstanding any other provision of law" language in legislation for FY 92, such language is not now applicable to ESF funds to be used for the NIS. Therefore, certain factors must be "taken into consideration" by you before these proposed projects may be obligated from the ESF account (or the DA account, if such funding is later made available). In fact, you normally take into consideration a number of conditions, to the extent that they may exist, on an annual basis before approving an allocation of assistance to specific countries. However, in light of the fact that the Coordinator's Office wishes to proceed with implementing the proposed projects on an expedited basis, we are presenting certain issues for your consideration at this time on an ad hoc basis.

In order to ensure that all relevant statutory requirements have been met, A.I.D. has developed a "country checklist", describing such requirements with particularity. The items on this checklist have been responded to in substance by the State Department, and its memorandum is attached hereto as Tab C. In the case of the five republics of the former Soviet Union discussed herein, only one consideration is relevant in considering whether to provide assistance.

Section 620(l) of the FAA provides that assistance may be denied if the recipient country has failed to enter into an investment guaranty agreement with the United States. As of this date, OPIC is in the process of initiating negotiations with each of the five individual republics to whom we plan to render assistance. Although such negotiations are in the process of being initiated, they have not yet been finalized and, to date, OPIC has not concluded any bilateral investment guarantee agreements with these new republics. Please bear in mind, however, that

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statutorily mandated considerations in providing foreign assistance need only be "taken into account". The mere existence of such factual considerations does not, in and of itself, prohibit assistance to the country in question. Thus, in light of the fact that this process of negotiation has been initiated by OPIC but not concluded as of this date, we request you to take this into consideration and permit assistance to move forward as planned.

Recommendation: That you, by your signature below, take into consideration the circumstances described above, and approve the use of ESF funds (and DA funds to the extent necessary in the future), subject to the availability of such funds, for assistance to the five republics named above. Such assistance will be authorized by separate action, and shall be subject to the determinations made pursuant to §§620(f)(2) and (c) of the FAA.

Approved: Mark L Edelman

Disapproved: _____

Date: 3-27-92

Attachments:

- TAB A - Section 620(f)(2) determination by the Secretary
- TAB B - Section 620(c) determination by the Deputy Secretary
- TAB C - Department of State Memorandum re: Statutory Checklist

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.62.

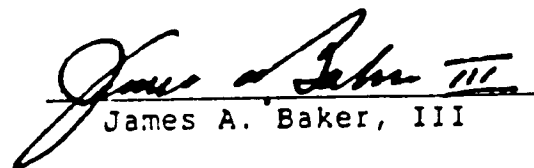
Determination under Section 620(f)
of the
Foreign Assistance Act of 1961, as amended

Pursuant to Section 620(f)(2) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2370(f)(2)), and Section 1-201(a)(12) of Executive Order No. 12163, as amended, I hereby determine that the removal of the Soviet Union from the application of Section 620(f) of the Foreign Assistance Act, for an indefinite period, is important to the national interest of the United States.

This determination shall be reported to the Congress and published in the Federal Register.

September 10, 1991

Date


James A. Baker, III

JUSTIFICATION FOR THE PRESIDENT'S DETERMINATION
TO REMOVE THE PROHIBITION ON OPIC ACTIVITIES
IN THE SOVIET UNION

A determination to remove the Soviet Union from the prohibition on assistance to Communist countries is in the national interest for several reasons. The U.S. supports efforts within the Soviet Union to establish a strong and functioning democracy and to move decisively toward a market economy. If these trends continue, the U.S. should support them by responding, step by step, to progress made.

At the recent Moscow Summit, President Bush underlined his support for market-oriented reforms in the Soviet Union by reaffirming his desire to promote U.S. trade and investment with the Soviet Union. To normalize our trade relations, he has already submitted the U.S.-Soviet Trade Agreement to Congress. He also reiterated his commitment to work with the Congress to lift the Stevenson and Byrd restrictions on official credit programs. The availability of OPIC programs for U.S. companies seeking to invest in the Soviet Union would complement these actions. Providing technical economic assistance is also consistent with the goal of helping the Soviets develop a market economy.

Moreover, the Soviet Union is giving evidence of fostering the establishment of a genuinely democratic system, with respect for internationally recognized human rights. The failed coup by hardline factions in the Soviet military and security forces has accelerated the establishment of a democratic system in the Soviet Union. The coup discredited the old guard in the Soviet Government and led to the collapse of the Communist Party, the primary obstacles to democratic reform and creation of a pluralistic political system.

The failure of the coup strengthened Soviet leaders, such as Boris Yeltsin and Leningrad Mayor Sobchak, who are committed to democracy and reform. President Gorbachev has replaced opponents of reform in key posts -- such as the Interior Minister, Defense Minister, and head of the KGB -- and appointed in their place men with strong reform credentials. More fundamentally, the opposition of the Soviet people to the coup showed that the principles of democracy and rule of law have taken root in the Soviet Union. There is a clear consensus for establishment of a genuinely democratic system that no Soviet or republic leader can choose to ignore.

The CPSU's reign of political dominance came to an end with the historic Supreme Soviet decree of August 29 suspending the activities of the party throughout the Soviet Union and seizing its assets. Several republics have gone further and outlawed the party completely. As President Bush stated, the collapse of the totalitarian non-democratic CPSU is a cause for cheer.

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In recent years, the Soviets have demonstrated an increasing respect for internationally recognized human rights. Soviet citizens are freer to speak, write, practice their religion and participate in public life than ever before. As a reflection of this improvement, the U.S. Government, while continuing to express its concern at ongoing human rights abuses, is simultaneously working with the Soviet Government to institutionalize human rights progress. Substantial improvement has been seen in the Soviet human rights record in areas such as emigration, political prisoners and psychiatric abuse.

Initial developments after the coup suggest the potential for further human rights gains. A key reformist, Vadim Bakatin, was named to head the KGB, and the USSR Congress of Peoples' Deputies approved a declaration September 5 explicitly enumerating the rights of individuals.

In this environment, OPIC insurance and finance programs, along with technical economic assistance, can serve as useful tools to encourage the development of emerging private sector enterprises and institutions, as well as the normalization of bilateral economic relations.



Dear Mr. Chairman:

Section 620(f)(2) of the Foreign Assistance Act of 1961, as amended, authorizes the President to remove a Communist country from ineligibility to receive assistance under the Foreign Assistance Act if the President determines and reports to the Congress that such action is important to the national interest of the United States. The President's authority to make such determinations has been delegated to the Secretary of State pursuant to Section 1-201(a)(12) of Executive Order No. 12163 of September 29, 1979, as amended. On behalf of the Secretary of State, we wish to advise that, pursuant to these authorities, the Secretary of State has determined that it is important to the national interest to remove the Soviet Union from the application of Section 620(f). I enclose a copy of the Secretary's determination and justification.

Sincerely,

Janet G. Mullins
Assistant Secretary
Legislative Affairs

Enclosures:
As stated.

The Honorable
Dante B. Fascell,
Chairman, Committee on Foreign Affairs,
House of Representatives.

Dear Mr. Chairman:

Section 620(f) of the Foreign Assistance Act of 1961, as amended, authorizes the President to remove a Communist country from ineligibility to receive assistance under the Foreign Assistance Act if the President determines and reports to the Congress that such action is important to the national interest of the United States. The President's authority to make such determinations has been delegated to the Secretary of State pursuant to Section 1-201(a)(12) of Executive Order No. 12163 of September 29, 1979, as amended. On behalf of the Secretary of State, we wish to advise that, pursuant to these authorities, the Secretary of State has determined that it is important to the national interest to remove the Soviet Union from the application of Section 620(f). I enclose a copy of the Secretary's determination and justification.

Sincerely,

Janet G. Mullins
Assistant Secretary
Legislative Affairs

Enclosures:
As stated.

The Honorable
Claiborne Pell,
Chairman, Committee on Foreign Relations,
United States Senate.



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

Associate
Administrator
for Operations

INTERIM REORGANIZATION
DELEGATION OF AUTHORITY NO. 10

TO: Director of the Task Force for the
Newly Independent States of the Former Soviet Union

FROM: Associate Administrator for Operations

SUBJECT: General Authorities

Pursuant to my authority as Associate Administrator for Operations, it is hereby ordered as follows:

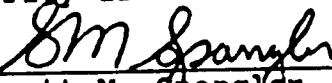
A. With respect to all former republics of the Soviet Union (except Latvia, Lithuania, and Estonia), there is delegated to the Director of the Task Force for the Newly Independent States of the Former Soviet Union all of the authorities delegated to me from the Administrator.

B. Any individual designated by the Director of the Task Force to be the acting Director of the Task Force during the absence of the Director of the Task Force is authorized to perform the functions delegated hereunder.

C. All references in A.I.D. Handbooks, policy statements, guidance cables, and regulations to Assistant Administrators having responsibility for geographic regions shall be deemed to include the Director of the Task Force.

D. The General Provisions of chapter 1 of Handbook 5 apply, unless provided otherwise in a specific delegation.

E. This Delegation of Authority is effective immediately.



Scott M. Spangler
Associate Administrator
for Operations

Date: 3/30/92

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