

USA 10392

**AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523**

PROJECT MEMORANDUM

**NEW INDEPENDENT STATES: DEMOCRATIC PLURALISM INITIATIVES
(110-0007)**

Authorized: April 10, 1982

Table of Contents
Project Memorandum
Democratic Pluralism Initiatives Project
New Independent States Regional
No. 110-0007

Title Page
Project Authorization
Attachments:

- TAB A - Project Memorandum
- TAB B - Minutes of Inter-Agency Meeting, 3/27/92
- TAB C - Congressional Notification
- TAB D - Initial Environmental Examination
- TAB E - 604(a) Determination dated 3/30/92
- TAB F - Circular 175 Authorization dated 2/4/92
- TAB G - 620(c) Determination dated 1/20/92
- TAB H - Action Memorandum to the Administrator, 3/27/92
- TAB I - 620(f) Determination dated 9/10/91
- TAB J - Interim Reorganization Delegation of Authority No. 10 dated 3/30/92

ACTION MEMORANDUM FOR THE DIRECTOR, OPS/NIS TASK FORCE

APR -8

FROM: OPS/NIS Task Force, Paul O'Farrell *P. O'Farrell*

SUBJECT: Project Authorization for the Democratic Pluralism
Initiatives Project
Project No. 110-0007

PROBLEM: Your approval is required to authorize the Democratic Pluralism Initiatives Project for the New Independent States (NIS), at a level of \$25.0 million life-of-project. The Project Assistance Completion Date (PACD) will be four years from the date of first obligation.

BACKGROUND: In the wake of the dramatic collapse of the Soviet economic and political systems, the United States has initiated a coordinated effort to assist the NIS in their economic and social transformation into democratic, free-market societies. Assisting the New Independent States in creating and nurturing the full range of democratic institutions, processes, and values is one of the highest priorities of our overall assistance program for the region. This project will be a principal mechanism for A.I.D.'s assistance in this area.

Dominated by the principles of popular choice and a respect for individual rights, the ways of democracy broadly defined are: equal vote by secret ballot, equal rights to compete for political power, equal rights to express views and see them reflected in a pluralistic political process, equal rights to organize for political ends within the rule of law, and equal rights to participate in the clash of opinions. The absence, or at best infancy, of these principles is common to all of the New Independent States, as are structural problems that involve building the legal entities of a state. On the other hand, each of the states has particular characteristics which need to be addressed as it attempts to establish democratic structures. A.I.D.'s assistance must, therefore, be able to address both region-wide and country-specific problems in constructing democratic societies.

Democratic development in the NIS can be divided into four broad areas for assistance: **political and social process, independent media, rule of law, and democratic governance/public administration:**

Political and social process refers to the extra-governmental institutions through which citizens can organize and express their political interests. Typically, democratic political parties, independent labor unions,

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public interest groups, and other civic and professional associations fill that function institutionally, and free-and-fair elections do so procedurally. The populations of the NIS have had little experience with such extra-governmental institutions.

A viable **independent media** will ensure that people have access to truthful information and a forum for open expression of public opinion. The media, both print and electronic, played a crucial role in the dramatic reform movement in the former Soviet Union. It is essential to the democratic development of the NIS to ensure that this role flourishes and expands into a firm tradition of a free press, especially in the face of possible authoritarian impulses. Severe economic austerity poses a threat to both successful existing operations and budding efforts in the media sector.

Democracy depends on a civil society which operates within the **rule of law**. The existing legal structures in the NIS do not reflect fundamental premises of stable judicial systems, such as impartiality, transparency, justice and the rights of the individual. In general, the populations of the NIS have had little experience with using the judicial system as legal recourse for disputes, and lack confidence that such a system will produce just, impartial results.

After years of centralized rule based on decisions of the Communist Party, new government structures need to be developed at national and local levels, based on principles of **democratic governance**. There is a tremendous need to define the roles of and between the various levels of government. Government institutions at all levels will be attempting to redefine their operations in a fluid, and potentially chaotic, situation. Developing local level ownership of democracy will mean developing credible and functioning local government bodies that respond to local needs. Government officials, especially at the local level, lack training in key areas. Assistance is needed by reformers who must now grapple with all of the problems of **public administration**.

The magnitude of need in these four areas is enormous. Of most immediate and vital importance are those activities which are most likely to ensure the support and sustained participation of the general population in the transformation to democracy. Given the current context of widespread uncertainty, it is critical to build an understanding of democracy, and channel popular opinions and grievances through democratic channels. Strong, legitimate non-governmental institutions for the expression of political opinion and interest, including the independent media, are the highest priorities for initial funding. Elections assistance

will also be critical. While some assistance to help reformers establish the building blocks of constitutional government and sound public administration merit attention at the outset, substantial, longer-term support should be deferred until there are freely elected governments.

DISCUSSION:

The purpose of the Democratic Pluralism Initiatives Project is to assist in the political and social transformation of the states of the former Soviet Union from a one-party, centralized communist regime to pluralistic democracies.

The project has been designed to provide a flexible and responsive framework for U.S. assistance. The design provides for a number of entry points in the nascent democratic scene, with the recognition that needs and the pace of change will vary from state to state. The assumption is that changes in focus and resource levels will be necessary as project implementation proceeds, with adjustments in response to the evolving situation in the region.

This four-year project, as more fully described in the attached Project Memorandum (TAB A), will support activities in the four areas discussed above. The geographic focus will be broad, with an attempt to include as many of the new independent states as possible. In addition to Russia and Ukraine, Central Asia will be specifically targeted for support. Support will be channeled through direct grants (or contracts) and through transfer of funds to other U.S. government agencies, and will include technical assistance and training, with limited commodity procurement, as appropriate.

Each project component is discussed below, with identification of initial activities. Organizations cited for support have submitted unsolicited proposals or have notified A.I.D. that they are preparing them.

- * **Political and Social Process:** Priority for initial funding will be given to political party development, labor union development and civic education. With the initial tranche of funding, grants are anticipated to the National Democratic Institute (NDI), the International Republican Institute (IRI), and the AFL-CIO, through its Free Trade Union Institute (FTUI). NDI would support (1) political party development in Russia, Ukraine and Central Asia, (2) training in civic organization, with a focus on voter education and citizen responsibility, in Russia, Ukraine and Central Asia, and (3) other activities to promote citizen awareness of and involvement in political issues. IRI may support civic education and political training programs in Russia, Ukraine and the Central Asian Republics. FTUI plans

to support an independent union press, a labor training program in Central Asia, and U.S. training for trade union leaders. Future funding is anticipated for elections support, and assistance to other types of organizations that promote public awareness or channel public interest.

- * **Media:** Two areas will receive priority funding: (1) TV production studios, in order to get independent news and public opinion programs on NIS television, and (2) independent news agencies, in order to ensure the financial viability of the independent print media. Using funds from the initial tranche, a grant is anticipated to the Internews Network, to establish an independent television news distribution system. Support for print media is also planned for the initial tranche, perhaps through an Inter-Agency Agreement with USIA. It will include some expendable materials, such as newsprint, but will emphasize training in business, management and marketing to lay the foundation for financial viability. Sustainability of both television and print media within a market economy will be an underlying theme for media support.

- * **Rule of Law:** Priority will be placed on new constitutions, revised criminal, civil or constitutional laws, and general legal procedures in order to build the infrastructure for an independent judiciary. The most immediate focus will be on providing technical assistance to assist with drafting constitutions and revising legal procedures to construct a basis for further reform of the legal system. Initial support is anticipated through a grant to the American Bar Association, which is planning a program of workshops, consultations, resident experts, and exchanges in the above areas. (Other initial support in rule of law is already underway through an Inter-Agency Agreement with the State Department, funded under the Democratic and Economic Initiatives (DEI) Project, No. 110-0001).

- * **Democratic Governance/Public Administration:** Assistance under this component will focus on opportunities which demonstrate clear linkages to democratic institution-building. Initial, broad-based support in this area is funded under the DEI Project 110-0001, through an Inter-Agency Agreement with USIA for its public policy program. No project funds are budgeted from the initial tranche of funds for this component. Future support could include assistance to democratically-elected legislatures and assistance to local governments and to the decentralization process.

In order to better analyze the evolving situation in the NIS and ensure that democracy assistance remains relevant and

appropriate, a small amount of funding will be available to support analyses, studies, and seminars on democracy in the NIS.

The following is a summary illustrative budget:

SUMMARY (\$ 000)

	<u>FY 92</u>	<u>Life of Project</u>
Political/Social Process	4,000	11,000
Independent Media	2,850	7,000
Rule of Law	1,000	3,000
Democ. Gov./Pub. Admin	-	3,650
Information/Seminars	150	150
Evaluation	-	100
Audit	-	100
TOTAL BUDGET	8,000	25,000

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 a formal intra- and inter-agency review of the PDP was undertaken on March 27, 1992 (TAB B). The State Department's Coordinator's Office has participated in the development of this project and has cleared it.

CONGRESSIONAL NOTIFICATION: The Congressional Notification expired on March 21, 1992. A copy is attached at TAB C.

ENVIRONMENTAL CONSIDERATIONS: The Project will finance technical assistance, training and limited commodity procurement and, as such, has no significant environmental impact. Programs which involve technical assistance and training are excluded from examination under 22 CFR 216.2(c)(1)(i) and 216.2(c)(2)(i). The IEE is contained at TAB D for your signature.

SOURCE, ORIGIN AND NATIONALITY: Goods and services procured under the Project shall have their source and origin in the United States (Code 000) for foreign exchange costs or in the cooperating country for local currency costs. A formal determination under Section 604(a) of the Foreign Assistance Act of 1961, as amended, was approved March 30, 1992 by the Deputy Secretary of State to remove the NIS from the category of non-Free World countries (TAB E). Local procurement within one of the newly independent states will be conducted in accordance with chapter 18 of A.I.D. Handbook 1B.

AVAILABILITY OF FUNDS: Funds in the amount of \$8.0 million have been apportioned to A.I.D. from OMB. Future funding will be provided incrementally, subject to the availability of funds.

IMPLEMENTATION:

Monitoring: Overall project supervision and monitoring will be the responsibility of an A.I.D. project officer with expertise in democratic initiatives. Initial monitoring will be conducted from Washington, supplemented by staff assigned temporarily or permanently to A.I.D. offices in the NIS. AID/W and field office staff will meet periodically with and review progress reports provided by implementing organizations. Implementing organization travel to the field will be cleared in advance with appropriate A.I.D. staff.

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

A inter-agency Project Steering Committee will be convened periodically to review overall project policy, strategy and management. One important task of this committee will be to reassess project priorities based on implementation experience, the activities of other donors and projects, and political developments in the NIS. The Committee will be composed of appropriate members of U.S. agencies participating in the project and other relevant U.S. Departments.

Evaluation: Each grantee, contractor and implementing agency will prepare an evaluation plan to be approved by A.I.D. Project funds will be made available to finance external evaluations as necessary. A mid-term evaluation may be undertaken by A.I.D. to determine overall project progress and to recommend necessary modifications.

Audit: Grants, contracts, and Inter-Agency Agreements executed under the project will provide that the audit and inspection requirements set forth in the Inspector General Act of 1978, as amended, shall apply. A.I.D.'s Inspector General shall ensure full compliance with all applicable provisions of the Act.

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 F). Negotiation should commence shortly. These written arrangements will include appropriate language concerning aid recipients' responsibilities and contributions, duties and taxes, as well as audit rights. The written arrangement will insure, 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 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 OPS/NISTF. 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 Secretary of State issued a 620(c) determination on January 20, 1992 that program activities may proceed based on national security considerations. The determination is attached at TAB G.

All "taking into account" matters were reviewed and approved by the Administrator on March 27, 1992 (TAB H). One matter needed consideration. It was that, pursuant to FAA Section 620(1), 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 be permitted to flow to these states under the circumstances. (Note: On April 2, 1992, the first OPIC bilateral agreement between the U.S. and the NIS was signed with Armenia.)

AUTHORITY: On September 10, 1991, the Secretary of State signed a Section 620(f) determination (TAB I) to permit assistance for the former Soviet Union. You have authority to authorize this project pursuant to Interim Reorganization Delegation of Authority No. 10 dated March 30, 1992 (TAB J).

RECOMMENDATION: That by signing below and where indicated you:
(1) authorize the Democratic Pluralism Initiatives Project, No. 110-0007, a four year activity which involves planned life-of-project funding of \$25.0 million, subject to the availability of funds; and (2) approve the Initial Environmental Examination (TAB D).

Approved: Malcolm Butler

Disapproved: _____

APR 10 1992

Date: _____

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Clearances (Project No. 110-0007):

OPS/NISTF: JWiles	(DRAFT)	Date	(4/3/92)
EUR/DR: GHyman	(DRAFT)	Date	(4/8/92)
OPS/NISTF: JNandy	(DRAFT)	Date	(4/7/92)
OPS/NISTF: JBourgault	(DRAFT)	Date	(4/7/92)
GC: TGeiger	<i>TG</i>	Date	<u>4-8-92</u>
OPS/NISTF/FM: INesterczuk	<i>IN</i>	Date	<u>4/8/92</u>
OPS/NISTF: HJohnson	<i>HJ</i>	Date	<u>4/8/92</u>
OPS/NISTF: BTurner	<i>BT</i>	Date	<u>4/8/92</u>

STATE:

D/CISA: CRufenacht	<i>CR</i>	Date	<u>4/8/92</u>
EUR/ISCA: CMartin	(DRAFT)	Date	(4/6/92)

drafted: OPS/NISTF, RFanale 3/30/92
RFANALE\DOCS\AUTH.DPI

Project Memorandum**Democratic Pluralism Initiatives Project
New Independent States (NIS) Regional
Project No. 110-0007****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 new independent states (NIS) into the community of democratic nations. It replaces a single familiar empire with 12 new countries which have initiated one of the most ambitious democratic experiments of all time. 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 the regional program.

PURPOSE:

To assist in the political and social transformation of the states of the former Soviet Union from a one-party, centralized communist regime to pluralistic democracies.

RATIONALE:

In his December, 1991 speech on the Soviet Union, Secretary of State James Baker outlined three tasks for U.S. engagement in the Soviet Union beyond humanitarian assistance. The first is to assist in destroying and controlling the military remnants of the Cold War, the second is to help build political legitimacy, and the third is to aid in establishing free markets and stable economies. Specifically concerning political legitimacy, the Secretary stated that "we must help our former adversaries understand the ways of democracy to build political legitimacy out of the wreckage of totalitarianism." This project is designed to directly address this task, while at the same time complement the overall U.S. effort in the former Soviet Union. A democracy component is crucial because free markets and free societies go hand in hand: attempts to construct free markets in closed societies are at best inherently problematic, and most likely unsuccessful.

Dominated by the principle of popular choice and a respect for individual rights, the ways of democracy broadly defined are: equal vote by secret ballot, equal rights to compete for political power, equal rights to express views and see them reflected in a pluralistic political process, equal rights to organize for political ends within the rule of law, and equal rights to participate in the clash of opinions. The absence, or at best infancy, of these principles is common to all of the new independent states. The states also share structural problems of democratization that involve building the legal entities of a state, such as a depoliticized court system, a lawful shift toward a market economy and an even-handed conversion and distribution of state property to private property. In addition, the states have particular characteristics and problems which need to be addressed and which will shape any democratic structure they establish: widely different minority populations with long-standing traditions, religions, cultures, and institutions; various memories, mutual grievances and hostilities; rival historical claims to political or territorial rights; and so forth. In short, the attempt to construct democratic societies will be an attempt to meet certain common problems (with certain common solutions) and an attempt to meet certain distinctive problems (with distinctive solutions).

Assisting the new independent states in creating and nurturing the full range of democratic institutions, processes and values -- and avoiding the pitfalls of violent communalism -- is one of the highest priorities of our overall assistance program. Towards this end, this project will address the following areas:

- * **Political and Social Process:** Democracy depends on extra-governmental institutions through which citizens can organize and express their political interests, ultimately through free-and-fair elections. Typically, democratic political parties, independent labor unions, public interest groups, and civic and professional associations fill that function institutionally and free-and-fair elections do so procedurally. The populations of the NIS have had little experience with such extra-governmental institutions.

Under the communist regime, single candidate elections were the norm. New political parties face the challenge of overcoming a strong negative image, as the general public's perception of political parties is based mainly on its experience with the Communist Party. In general, political parties and community organizations which have emerged in the NIS tend to be coalitions of individuals with often dissimilar views united primarily by their opposition to the Communist Party and its system. With the demise of the Communist Party, these coalitions, such as the RUKH in Ukraine, are likely to split apart. That is acceptable, perhaps even desirable, so long as they maintain their commitment to the democratic process. However, it is one thing to be an underground movement and another to play a constructive role as a

political party in a democratic system both within and outside the legislature. This project will provide assistance to democratic political parties in that transition.

The development of a democratic free trade union movement in the NIS will be critical to durable democratic institutions. Worker unrest in general and a perception by workers that free markets and democratic institutions work only to their disadvantage pose serious potential threats to social peace and to political and economic development.

Priority for initial funding will be given to political party and labor union development as well as civic education to build an understanding of democracy. Future funding will target setting up the mechanisms to ensure that elections take place in a free, open and fair manner, and support for other extra-governmental institutions.

- * **Independent Media:** Regardless of the structure of institutions which ultimately govern the republics, and regardless of which individuals are in leadership positions, a viable and independent media will ensure that people have access to truthful information and a forum for open expression of public opinion.

The media, both printed and electronic, played a crucial role in the dramatic reform movement in the former Soviet Union, with coverage of the August coup exemplifying the importance of the media in a democratic society. Even prior to the reforms, underground presses kept debate and public expression alive under the communist regime. It is essential to the democratic development of the new independent states to ensure that this role flourishes and expands into a firm tradition of a free press, especially in the face of possible authoritarian impulses. Under the Soviet regime, media operations were centralized and highly subsidized by the government. These subsidies are rapidly disappearing. Severe economic austerity poses a threat both to successful existing operations as well as budding efforts in the media sector. Newsprint shortages are causing newspapers as established as Pravda and as important as Democratic Russia to shut down operations. The independent media in the NIS need technical assistance, training and commodity support. It will be important to emphasize marketing and business management skills as well as technical expertise to ensure the financial viability of the independent media.

- * **Rule of Law:** Democracy depends on a civil society whose citizens understand the democratic process, respect the rights of other citizens (and minority groups) to disagree, settle disputes through a legitimate and just legal system, and

pursue their own lives and their own political beliefs within the rule of law.

The NIS has a long legal history and a plethora of lawyers, but the existing legal systems are not based on fundamental premises of the rule of law. The legal systems in the NIS are in a period of flux, as a majority of the republics are drafting new constitutions (the Soviet constitutions remain in place until these are drafted). Existing legal systems lack legal codes and standards for practice. In general, the populations of the NIS have had little experience with using the judicial system as legal recourse for disputes, and lack confidence that such a system will produce just, impartial results. On the positive side, reform leaders espouse the need to build a "rule of law" state, despite the lack of a basis from which to build such a state.

Project assistance will support the establishment of stable judicial systems, based on impartiality, transparency, justice and the rights of the individual. Priority will be given, at least initially, to activities which will help construct the basis for further reform of the legal system and help create an independent judiciary, among them assistance in drafting constitutions, revising legal procedures, and criminal law reform. Some of these needs are already being funded under Project 110-0001, through start-up support for legal advisors and training. (This project will not focus on efforts to reform commercial laws or regulations, as these are more appropriately addressed through private sector initiatives.)

* **Democratic Governance and Public Administration:** Developing local-level ownership of democracy means developing credible, functional local government bodies that respond to local needs. Decentralization to democratically elected local governments will help inculcate democratic values and traditions at the local level and make democracy more visible and meaningful for the local population, for whom confidence in democracy has to be earned.

After years of centralized rule based on decisions of the Communist Party, a new role for national and local governments is slowly evolving in the new independent states. The governments of the republics are basically the same structures which existed prior to the reform movement, with the fundamental difference being the absence of the parallel and more powerful Communist Party structure. These structures tend to be very cumbersome, with many players, especially in the legislative branches (for example, there are over 1000 deputies in the Russian Congress of Peoples Deputies). Beyond the national governments, the republics are broken down into many different administrative units, ranging from ethnically-

based autonomous republics and non-ethnic administrative units (oblasts) to raions and cities. Each political unit has its own Soviet (legislature), and executive branch. Management and decision-making continue to be from the top, with local governments attempting to define their role as systems are reformed. There is tremendous need to define the roles of and between the various levels of government, including revenue collectors and jurisdictions for services. Government officials, especially at the local level, lack training in public finance, organization and management, program implementation, policy analysis and basic governance.

Assistance is needed by neophyte reformers who must now grapple with all of the problems of public administration. The reformers, by definition, have little if any experience administering the public's business. That inexperience is all the more problematic in the potentially chaotic, revolutionary environment in which they now operate, and in the context of a political tradition in which all business was defined as the public's business: in the absence of a private sector, all problems come to the government.

Broad-based assistance in the area of public administration will, at least initially, be funded through Project 110-0001. However, once democratic reforms are well under way within governments, public administration reforms will be more closely tied to democratic reforms. The project may provide assistance in public administration, and will target opportunities which focus on linkages to democracy building.

All of the areas described above merit assistance. However given the limited resources available, the many problems which need to be addressed, and the broad and diverse populations we hope to serve, priorities have to be set. In setting priorities, we consider those areas which will ensure that democracy takes hold in the general population to be of most immediate and vital importance. Particularly in the context of deep uncertainty, the necessity to channel popular opinions and grievances through legitimate, democratic channels is crucial. The potential alternative is demagoguery, revolution, chaos, and a return to totalitarianism imposed by the promise of a return to order. Therefore, support for extra-governmental, legitimate institutions for the expression of political opinion and interest, including the independent media, will be of highest priority for initial funding under this project.

Developing effective legal systems will be an enormous task which will likely merit increasing assistance as the building blocks for a rule of law regime -- political stability, democratic constitutionalism, etc.-- are established. As a first priority, project support will help establish constitutional frameworks and basic procedures. Although a modest program in public administration will be made available to reform-committed

governments under Project 110-0001, substantial technical and material assistance to the present governments is, in general, the lowest priority for this project.

Project activities will be selected taking into account other U.S. government assistance. In particular, support for a new foundation, the Eurasia Foundation, is anticipated through another project. Detailed programmatic areas for the Foundation are now being developed, and one of its priority areas is anticipated to be democratic initiatives. Particular emphasis is likely to be given to supporting a range of indigenous civic organizations. Given the overall magnitude of need in this sector in the NIS, duplication of effort is unlikely as long as there is ongoing coordination of effort. A.I.D.'s procedures for program implementation review and planning will help ensure this coordination.

Project assistance---levels, priorities and timing---will also be influenced by collateral assistance provided by other organizations. For example, the National Endowment for Democracy (NED) and its core institutes, the National Democratic Institute for International Affairs (NDI), the International Republican Institute (IRI), and the Free Trade Union Institute (FTUI) of the AFL-CIO, have been engaged in democracy-building programs for over a year using Congressional appropriations. Private foundations, like the Soros Foundation, are also active in the former Soviet Union. Multilateral organizations (the World Bank, the European Community, the Organization for Economic Co-operation and Development, etc.) are currently funding public administration efforts in Central and Eastern Europe and may soon do so in the former Soviet Union. Allocation of resources in this project will take into account the activities of these other organizations.

PROJECT DESCRIPTION:

The project design is intended to provide a flexible and responsive framework for U.S. assistance. The design provides for a number of entry points in the nascent democratic scene, with the recognition that there will be more progress in some states than in others. It also recognizes that, as the needs of different states shift, so must the shape of democracy assistance adjust. The assumption is that changes both in focus and in resource levels will be necessary as implementation proceeds.

Due to the importance of democracy building in the entire region, the geographic focus of this project will be broad, with an attempt to include as many of the new independent states as possible. In addition to Russia and Ukraine, Central Asia will be specifically targeted for support under project components.

Implementation will be through direct A.I.D. management of grants, cooperative agreements and contracts, or transfer of funds to other

U.S. Government agencies, as appropriate. Four broad components for support have been identified, consistent with stated priorities. The project will provide technical assistance, training and some commodities in support of these components. Initial activities under each component are discussed below:

- * **Political and Social Process:** Initial emphasis will be on civic education to spread democratic ideas, and the development of democratic political parties as partisan non-governmental interest groups. Handbook 13 grants are planned with the National Democratic Institute (NDI) and the International Republican Institute (IRI), who will undertake a combination of short-term technical assistance, in-country training and seminars, and some equipment procurement for these purposes.

The National Democratic Institute (NDI) has submitted an unsolicited proposal to build on work it has undertaken in the former Soviet Union since 1990. NDI proposed to support: (1) political party development (including party organization, role in elections, role in parliament, and role in strengthening civil society) in Russia, Ukraine and Central Asia, through in-country seminars and intensive consultations; (2) training in civic organization in Russia, Ukraine and Central Asia working in such areas as voter education and citizen responsibility; (3) other activities to promote citizen awareness of and involvement in political issues. NDI proposes to implement its program through resident advisors in Russia, Ukraine and Kazakhstan who would coordinate NDI activities in their country or region. Activities will concentrate in, but not be restricted to, these states. NDI has a proven record in the former Soviet Union, and is poised to begin project implementation immediately.

The International Republican Institute (IRI) has already received National Endowment for Democracy (NED) support for civic education and political training programs in Russia, Ukraine and Kazakhstan. On-going work includes seminars and symposia as well as provision of written and audio-visual materials. Target groups include the Democratic Russia Movement and its member organizations, the RUKH Movement and affiliated parties in Ukraine, and pro-democracy groups in the Central Asian region. IRI has a proposal in process to conduct seminars, workshops and exchanges on party issues tailored to the diverse needs of the various political forces in the NIS. It is likely to focus on Russia, Ukraine and the Central Asian Republics.

In the aftermath of the post-communist transition, coalitions are dissolving and reforming. IRI and NDI are both cognizant that any selection of parties to support can be very sensitive, and that they must strive to maintain and reinforce

a non-partisan image in NIS in the highly volatile political party situation.

Assistance for labor union development is planned through a grant to the AFL-CIO, through its Free Trade Union Institute (FTUI). This organization has been providing extensive support to free labor unions in the NIS for the past two years, including organizational support and assistance in drafting labor laws. FTUI has submitted an unsolicited proposal for a program to complement its ongoing union work in the NIS. It has three assistance areas: (1) support (commodity and training) for independent union press; (2) the creation of a Center for Democracy, Human Rights and Labor in Kazakhstan to effectively extend labor training programs to Central Asia; and (3) long-term U.S. training for Russian and Ukrainian trade union leaders to expose them to labor practices in the west.

Future funding under this project component will include elections support, with an emphasis on establishing permanent, non-partisan electoral commissions charged with running free and fair elections. In order to develop the necessary mechanisms to support free and open elections, one possibility would be to buy-in to the centrally funded cooperative agreement with the International Foundation for Elections Systems (IFES), managed by the R&D Bureau. IFES is preparing a proposal to support the development of permanent elections commissions in the NIS, and can provide technical assistance on the administration of free and fair elections, as well as training and commodities in support of these elections.

Future funding for the Political and Social Process Component may also include grants to other organizations which support creative, local democracy ideas. Two possibilities are the Asia Foundation and the National Endowment for Democracy (NED). Other topics of possible funding include: the peaceful resolution of inter-ethnic and inter-republic disputes, educational reform, public awareness activities, and general assistance for public interest groups and other non-governmental organizations.

- * Independent Media: The Independent Media component of this project may be supported by both Inter-Agency Agreements with other U.S. organizations, and Handbook 13 grants. Two areas will receive priority funding: (1) TV production studios, in order to get independent news and public opinion programs on NIS television and (2) independent news agencies, in order to develop marketing skills and business management expertise for ensuring the financial viability of the independent print media. A grant is anticipated to the Internews Network, which has submitted an unsolicited proposal to establish an independent television news distribution system. The

Independent Media Fund has expressed an interest in media assistance in NIS. For print media, an organization may be competitively selected for a grant. As the independent media program develops, other organizations may also provide assistance.

Sustainability will be an underlying theme for media support. For print media, the project will finance some expendable materials, such as newsprint, to meet immediate needs, but only in the context of support which, at the same time, helps to build the capacity for longer-term solutions. With the growth of market economies, there will be both the possibility and the incentive for both television and the print media to be viable private sector enterprises. Project assistance will support training to help build business, management and marketing skills within the media, to lay the foundation for future self-sufficiency in a market environment.

- * **Rule of Law:** Initial priority will be given to support for drafting constitutions; developing or revising constitutional, criminal and civil laws; developing an independent judiciary; and instituting the rule of law through adequate procedural and substantive guarantees. A.I.D. expects to receive an unsolicited proposal from the American Bar Association (ABA) for initial support in these areas. The ABA proposal will be based on its program in Central and East Europe (CEELI), and includes the following channels for assistance: (1) technical assistance workshops which focus on a particular substantive area of the law; (2) emergency consultations, designed to respond to urgent requests by recipients; (3) resident experts for longer-term assistance; (4) sister law schools; and (5) legal exchanges and internships. ABA programs attempt to be request driven and focus on working as partners with recipients, an appropriate means to address the rule of law needs in these emerging democracies.

Future implementation modalities for the Rule of Law component may include transfers to USIA or the State Department's Bureau for Human Rights and Humanitarian Affairs, as well as A.I.D. direct grants.

- * **Democratic Governance and Public Administration:** Initial broad-based support in this area is being funded under Project 110-0001, and therefore no project funds are budgeted for this component in the initial tranche of funding. After the appropriate political groundwork has been laid, possible areas of support may include: assistance to democratically-elected republic and local level legislatures; assistance targeted to civilian control over the military; and assistance to support local governments and decentralization.

In order to better analyze the evolving situation in the NIS and ensure that democracy assistance remains relevant and appropriate, a small amount of funding will be built into the project to support analyses, studies, and seminars on democracy in the NIS. These activities will be implemented through a buy-in or a contract with an institution (or institutions) capable of providing these services.

PROPOSED LIFE OF PROJECT FUNDING: \$25 million

OBLIGATIONS: FY 1992: \$8 million. FY 1992 obligations are planned for no later than June 1992. All obligations are subject to the availability of funds.

10

19

ILLUSTRATIVE BUDGET: AID Financial Input (by Project component)¹	FY'92 (\$000)	Life of Project (\$000)
Pol & Soc Process	4,000	11,000
1. Pol. Parties & Civic Ed. & Org.	2,800	6,000
3. Labor Unions	1,200	3,000
4. Election Support	-	1,000
5. Loc.Dem.Init.	-	1,000
Independent Media	2,850	7,000
1. TV/Press/Radio	2,350	6,000
2. Journalist Train.	500	1,000
Rule of Law	1,000²	3,000
Dem Govt & Pub Admin	-³	3,650
1. Public Admin.		1,950
2. Other		1,700
Information/Seminars	150	150
Evaluation		100
Audit		100
TOTAL	8,000	25,000

¹ Individual technical assistance grants within components will include training/seminars/commodities.

² The \$1 million budgeted here is in addition to the \$250,000 being transferred to State/HR for rule of law activities under Project 110-0001.

³ FY 1992 funding of \$2.25 million is being transferred to USIA for a public administration program under Project 110-0001.

IMPLEMENTATION DETAILS:

- * **Monitoring:** Overall project supervision and monitoring will be the responsibility of an A.I.D. project officer with expertise in democratic initiatives. Initial monitoring will be conducted from Washington, supplemented by staff assigned temporarily or permanently to the regional A.I.D. offices in the NIS. AID/W and regional office staff will meet periodically with and review progress reports provided by implementing organizations. Implementing organization travel to the field will be cleared in advance with appropriate A.I.D. staff.

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

A inter-agency Project Steering Committee will be convened periodically to review overall project policy, strategy and management. One important task of this committee will be to reassess project priorities based on implementation experience, the activities of other donors and projects, and political developments in the NIS. The Committee will be composed of appropriate members of U.S. agencies participating in the project and other relevant U.S. Departments.

- * **Evaluation:** Each grantee, contractor and implementing agency will prepare an evaluation plan to be approved by A.I.D. Project funds will be made available to finance external evaluations as necessary. A mid-term evaluation may be undertaken by A.I.D. to determine overall project progress and to recommend necessary modifications.
- * **Audit:** Grants, contracts and Inter-Agency Agreements executed under the project will provide that the audit and inspection requirements set forth in the Inspector General Act of 1978, as amended, shall apply. A.I.D.'s Inspector General shall ensure full compliance with all applicable provisions of the Act.
- * **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. Negotiation should commence shortly. These written arrangements will include appropriate language concerning aid recipients' responsibilities and contributions,

duties and taxes, as well as audit rights. The written arrangement will insure, 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.

PROPOSED CONTRACT MECHANISMS: The primary method for implementing A.I.D.-managed activities will be through grants (including cooperative agreements) and Inter-Agency Agreements (IAA). Grants will be awarded in accordance with Handbook 13 requirements. When the need to respond rapidly to assistance requirements so justifies, waivers of full and open competition may be sought.

OTHER PROCUREMENT ISSUES: Goods and services procured under the Project shall have their source and origin in the United States (Code 000) for foreign exchange costs or in the cooperating country for local currency costs. A formal determination under Section 604(a) of the Foreign Assistance Act of 1961, as amended, was approved March 30, 1992 by the Deputy Secretary of State, to remove the NIS from the category of non-Free World countries. Local procurement within one of the newly independent states will be conducted in accordance with chapter 18 of A.I.D. Handbook 1B.

ENVIRONMENTAL CONSIDERATIONS: The Project will finance technical assistance, training and limited commodity procurement and, as such, has no significant environmental impact. Programs which involve technical assistance and training are generally categorically excluded from environmental examination under 22 CFR Environmental Procedures, Sections 216.2(c)(1)(i) and 216.2(c)(2)(i).

RISKS:

1. Democracy is said to take root most easily in societies with a large middle class whose population enjoys a fairly high rate of literacy, have democratic traditions, value human rights and rule of law, and have open and accountable government institutions. Viewed this way, the democracy balance sheet for the NIS looks bleak. After years of Communist rule, there is fragile peace and no prosperity. Certainly there is no democratic tradition in any of the states of the former Soviet Union. Military intervention and the threat of authoritarianism remains a possibility in all of them. The window of opportunity for supporting pluralism in the former Soviet Union may turn out to be very fleeting. This post-communist transition faces very real and serious problems.

Assessment: The strategic challenge will be to act quickly to support short-run democratic reforms that set a longer-term stage while avoiding the risk of having any reform slowed down by interest-group politics or civil unrest. Easier said, less easier done. Populations in economic, social and political crisis will be tempted by non-democratic solutions, particularly in light of their non-democratic pasts. While the fledgling democracies in the states are buffeted by many potentially disabling problems, these states are looking for a sympathetic, reliable and activist U.S. presence. The careful pacing and sequencing of democratic reforms will be essential, determining what needs to come first and what can follow later. Consistent with this challenge, the project will be designed with built-in flexibility to respond to the changing social, institutional and political context for democracy activities. It is not possible to predict the final outcome of democratic forces in NIS. We can strive to instill a respect for the workings of the democratic process and to support its basic institutional foundations. Periodic implementation reviews will be scheduled to assess the need for adjustments in emphasis, financing or implementation arrangements for project components.

2. The sovereignty of and relationships among the states remain in flux. Internal state structures and policies need to evolve without outside interference. However, assistance activities could result in a real or perceived interference by the U.S. in this evolving role of self-government and organic commonwealth relationships.

Assessment: The potential for U.S. assistance activities to interfere or appear to interfere in the national debates of sovereign states can be minimized by focusing activities on technical problems which are not an issue in the debate and by reaching an understanding with all the democratic players as to the appropriate assistance, counterparts and assisted entity, and monitoring mechanisms. The most sensitive area is the assistance to political parties and democratic trade unions. Such assistance should be available on an equitable basis to all of the parties committed to the democratic process. On the other hand, we are under no obligation to support authoritarian, totalitarian, communalist or irredentist forces merely to provide the formality of equal treatment. We do not propose equal treatment as between democratic and non-democratic forces. We support the former and oppose the latter. As to inter-republican disputes, we are interested in process more than outcome. So long as state relationships are established peacefully and democratically, the degree of integration among the states is not a matter of U.S. national interest. The commonwealth may be nothing more than a transitional arrangement to complete independence.

Their separate rediscovery of national identities does not preclude a later rediscovery of mutuality.

3. As planned, the project will provide grants to several U.S. organizations for long- and short-term technical assistance. In addition, other U.S. Government agencies may be used to implement components of the project. These agencies include the Department of State, Justice and USIA. Coordination and control will be difficult with so many actors.

Assessment: At this point the Bureau for Europe has significant experience with complex coordination of a range of democracy implementors working in a number of Eastern Europe countries. Results to date have been reasonably favorable. That experience will provide a basis, perhaps a model, for the NIS assistance program. Experienced A.I.D. and PSC personnel will be required to help manage and coordinate project activities.

ANTICIPATED ACCOMPLISHMENTS:

1. Responding rapidly to requests for technical cooperation; building confidence and strengthening relationships with the NIS.
2. Supporting the preparation and implementation of essential democratic reform measures.
3. Setting the stage for short- and long-term technical cooperation to help transform the NIS into free-market democracies.

TIMELINE:

April 8, 1992	Authorization Memorandum signed
April 13, 1992	PIO/T (for NDI) to OP
April 20, 1992	PIO/T (for Internews) to OP
April 20, 1992	PIO/T (for AFL-CIO) to OP
April 20, 1992	PIO/T (for ABA) to OP
April 27, 1992	PIO/T (for IRI) to OP
May 31, 1992	All initial grants signed

INTERAGENCY REVIEW OF DEMOCRATIC PLURALISM INITIATIVES PROJECT
NEW INDEPENDENT STATES REGIONAL
March 27, 1992, 3:00 PM, Rm. 6320 NS
March 13, 1992

SUMMARY MEMORANDUM OF CONVERSATION

PARTICIPANTS: Representatives from State, AID, USIA, and CIA (list attached). Chair: Barbara TURNER, NIS Task Force.

DISCUSSION: Ms. TURNER opened the meeting by asking Mr. HYMAN to introduce the planned democracy program for the NIS. Mr. HYMAN summarized the program's four general areas of support and cited the need to move quickly despite the lack of detailed information. He also pointed out that dramatic regional differences and a rapidly changing situation demand flexibility on the part of those promoting democratic development. Ms. TURNER inquired about mechanisms which will be put into place to obtain accurate and timely information on the creation of democratic institutions in the NIS, especially as we consider the next tranche of funding for the project. Mr. HYMAN noted that there would be access to regular government reporting, as well as information from the grantees' field staff. When questioned by Ms. Turner, he agreed that seminars and other fora for dialogue with various experts would be of particular assistance, and should be an area the project can support.

Ms. VOLKER questioned whether organizations which do not appear in the project document will be considered for funding. Mr. HYMAN answered positively, but cautioned that it would not be wise to fund more individual grants than can be effectively managed. Ms. VOLKER supported this point.

Ms. SCHWARTZ cautioned that it may not be wise to provide all funding for rule of law to one organization, and that, in particular, STATE/HA would like to remain involved. Mr. HYMAN clarified that the amount budgeted with the first tranche of funds is allocated, but that the life-of-project budget for this category will allow for other organizations and agency programs to be funded. Ms. TURNER reiterated that there may be additional funds this FY and that future funding decisions will be based on consultations with State and the broader inter-agency group. She also pointed out that, with reference to the entire program, it is important to support private sector organizations that can leverage other support.

Mr. KOCH asked whether the IMF grant through USIA will have a training component, and noted that the IMF's training program in the Baltics got mixed reviews. Ms. BOURGAULT said that initial media support should include training in marketing and management for media organizations. There was some discussion of the media component for the first year, and the role that USIA would play in training as opposed to the activities IMF or another organization would undertake. Several wondered about IMF's capacity to absorb funding. Mr. HYMAN and Mr. KOCH agreed that this would not be a problem, since they tend to get underway quickly. Ms. VOLKER mentioned another media proposal which needs to be looked at before making the final decision on the initial media budget. Ms. TURNER agreed that AID, State and USIS staff would discuss the matter further and agree on a breakout, especially given the doubts about the IMF, but that this decision would need to be reached very quickly.

Ms. VOLKER wondered whether the project would provide adequate flexibility to fund the "Democracy Centers" in the future. Ms. Turner stated that the project as it is currently written could incorporate this initiative, through a future amendment, but that it might be more appropriate to fund this initiative through a stand-alone project. Ms. VOLKER and Ms. TURNER agreed that the topic needed further discussion.

Ms. DI CARLO wondered whether there was adequate emphasis on civic education. Mr. HYMAN responded that this is a priority area for the project, and that additional civic education activities would be considered for funding in the future. Ms. TURNER requested that this be clarified in the project document.

Ms. VOLKER asked for additional information on the project's geographic focus. She noted that Central Asia does not appear to be a priority, and that it should be. NDI has expressed interest in working there, as have others. There was general agreement that the document should be clarified to show that, while all states are eligible for assistance, there will be a high priority given to Central Asia.

Ms. SCHWARTZ requested that the paper better reflect that rule-of-law activities are an immediate priority, especially given the ongoing training program funded through project 0001. Ms. TURNER agreed.

Ms. TURNER closed the meeting by summarizing agreed-upon actions.

List of Participants

AID:

OPS/NISTF: Barbara Turner, Meeting Chairman, x74784
Mary Ann Riegelman, x67007
Michael Korin, x77327
John Wiles, x77376
Rosalie Fanale, x78231
Jeanne Bourgault, x77153
Igor Nesterczuk, x79117
EUR/DR: Jerry Hyman, x77153
R&D: Chris Sabatini, x54622
OP/NIS: Jerry Kryschtal, x51200
GC/EUR: Bunyan Bryant, x77137

STATE:

D/CISA: Karen Volker, x71887
EUR/ISCA: Cheryl Martin, x75728
HA: Amy Schwartz, x71780

USIA:

USIA/EU: Bruce Koch, 619-4563
Rosemary DiCarlo, 619-5057

CIA: Rebecca Strode, (703) 482-9448

INTERAGENCY REVIEW OF DEMOCRATIC PLURALISM INITIATIVES PROJECT:
Minutes

Drafted: RFanale, OPS/NISTF

AGENCY FOR INTERNATIONAL DEVELOPMENT
ADVICE OF PROGRAM CHANGE

COUNTRY: New Independent States Regional
PROJECT TITLE: Democratic Pluralism Initiative
PROJECT NUMBER: 110-0007
FY 1992 CP REFERENCE: None
APPROPRIATION CATEGORY: Economic Support Fund (ESF)
LIFE-OF-PROJECT FUNDING: \$25,000,000 ESF Grant
INTENDED FY 1992 OBLIGATION: \$8,000,000 ESF Grant

This is to advise that A.I.D. intends to obligate \$8,000,000 for the Democratic Pluralism Initiative Project in the new independent states (NIS) of the former Soviet Union as follows: \$4,400,000 in FY 1991 Economic Support Fund (ESF) carryover grant funds originally programmed for Pakistan; and \$3,600,000 in FY 1992 ESF grant funds. This is a new activity which was not included in the FY 1992 Congressional Presentation. Life-of-project funding for the program is \$25,000,000. Life of project is four years.

This Project will assist in the political and social transformation of new independent states of the former Soviet Union from one-party, centralized Communist regimes to pluralistic democracies.

Annex: Activity Data Sheet

**AGENCY FOR INTERNATIONAL DEVELOPMENT
ACTIVITY DATA SHEET**

PROGRAM: New Independent States Regional

CP 01-00 (4-80)

TITLE Democratic Pluralism Initiative		FUNDING SOURCE Economic Support Fund	PROPOSED OBLIGATION (in thousands of dollars)		
NUMBER 110-0007		NEW <input checked="" type="checkbox"/>	PY 92	B, (M)	LIFE OF PROJECT (M) 25 (M)
SHORT <input checked="" type="checkbox"/> LOAN <input type="checkbox"/>	COMPLING <input type="checkbox"/>	PRICE REFERENCE None	INITIAL OBLIGATION FY 92	ESTIMATED FUND OBLIGATION FY 95	ESTIMATED COMPLETION DATE OF PROJECT FY 96

PURPOSE: To assist in the political and social transformation of new independent states (NIS) of the former Soviet Union from a one-party, centralized communist regime to pluralistic democracies.

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 new independent states 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.

Project Description: The Democratic Pluralism Initiative (DPI) Project will provide technical assistance, training and equipment to assist in the development or strengthening of democratic governance, independent media, the rule of law and political and social process. A.I.D. will implement the Project in several ways including, but not limited to, direct A.I.D. management of grants and contracts, or transfer of funds to other U.S. Government agencies. The states of the NIS with which the U.S.G. has established diplomatic relations will be targeted for assistance.

Democratic Governance: Public administration training and technical assistance will be provided to newly elected legislatures to establish procedures which are both democratic and effective. In addition, elected officials will be trained in order to institute democratic ideals. Executive branches at all levels will also receive assistance to institute democratic and effective governance.

Independent Media: Technical assistance will be provided to support the establishment and nurturing of free and independent newspapers and radio and television stations. Training will be provided to independent journalists.

Rule of Law: To establish the rule of law in the states of the NIS, constitutions, criminal and civil law will be developed or revised, judges trained, and due process of law established.

Political and Social Process: Democracy depends on extra-governmental institutions through which citizens can organize and express their political interests. Democratic political parties, independent labor unions, public interest groups, professional associations, and the like fill that function institutionally. Free and fair elections do so procedurally. Democracy depends also on a civil society whose citizens understand the democratic process and respect the rights of other citizens (and minority groups) to disagree, pursue their own lives and their political beliefs within the rule of law, and organize into private voluntary organizations to pursue their lives and political agendas with like-minded citizens. The project will provide technical assistance and training to support this process.

Relationship of the Project to A.I.D. Strategy: This project is integral to A.I.D.'s strategy of building free markets and democratic societies. Each of the components is designed to contribute to democratization in the societies of the NIS.

Beneficiaries: The immediate beneficiaries will be the governmental institutions and non-governmental organizations that receive technical assistance, training and commodities. The ultimate beneficiaries will be the people of the NIS who will enjoy a more open and democratic society.

Host Country and Other Donors: The U.S.G. contribution will represent a substantial portion of the DPI funding available for democracy activities in the states of the NIS. A.I.D. will work closely with other donors as they are identified.

A.I.D.-Financed Items	Life-of-Project (0000)
Technical Assistance	17,000
Training	6,000
Commodities	2,000
TOTAL:	25,000

U.S. FINANCING (in thousands of dollars)				PRINCIPAL CONTRACTORS OR AGENCIES
	1991	1992	1993	
Through September 30	1991			
Estimated Fiscal Year	1991			
Estimated Through September 30	1991			
Proposed Fiscal Year	1992	B, (M)	17, (M)	25, (M)
			Future Year Obligations	Estimated Total Cost

New Independent States
Democratic Pluralism Initiatives 110-0007

clearances:

DAA/EUR: DMerrill DM date: 3/6/92
GC/EUR: HMorris HM date: 3/14/92
R&DTF: BTurner (draft) date: 02/21/92
EUR/OSA: PO'Farrell (draft) date: 02/18/92 5/92
EUR/DR: Ranthony (draft) date: 02/04/92
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/DPI: JHyman/SKosinski, 2/3/92: 78262

EUR/PDP: EBailly: 76919: CN Coordination

cc-FA/B: JPainter

03/01/92

INITIAL ENVIRONMENTAL EXAMINATION

- (A) PROGRAM COUNTRY: New Independent States
- (B) ACTIVITY: Democratic Pluralism Initiatives
- (C) FUNDING: \$ 25.0 million
- (D) PERIOD OF FUNDING: FY 1992 - FY 1996
- (E) STATEMENT PREPARED BY: R. Fanale, OPS/NISTF
- (F) RECOMMENDED ENVIRONMENTAL ACTION: Categorical Exclusion under A.I.D. Regulation 22 CFR 216, Environmental Procedures, Sections 216.2 (c)(1)(i) and 216.2 (c)(2)(i).

(G) DECISION OF DIRECTOR/NIS TASK FORCE:

Malcolm Bowler
Approved

Disapproved
APR 10

Date

(H) DECISION OF ENVIRONMENTAL OFFICER:

Michael S. Phibbey
Approved

Disapproved
4-2-92

Date

EXAMINATION OF THE NATURE, SCOPE AND MAGNITUDE
OF THE ENVIRONMENTAL IMPACT OF
THE DEMOCRATIC PLURALISM INITIATIVES PROJECT, NO. 110-0007

A. DESCRIPTION OF THE PROGRAM:

The purpose of the project is to assist in the political and social transformation of the states of the former Soviet Union from a one-party centralized communist regime to pluralistic democracies. The project will fund technical assistance and training in four general areas essential to a transition to democracy in the NIS. The first is political and social process, or the role of extra-governmental institutions through which citizens can express their political interests. The second is development of independent media, whether print or electronic. The third is the rule of law, or assistance to support stable judicial systems. The fourth is democratic governance and public administration, including both national and local governments. Initial project emphasis will be on political party and labor union development, civic education, the media, and selected rule of law activities. Areas of project focus will be adjusted over the life of the project, within the broad framework set forth above, depending on the evolving context for democratic development in the NIS. Some commodities (e.g., office equipment and supplies, and some equipment and supplies for radio and television broadcasting and newspapers) will also be financed to support these efforts.

B. RECOMMENDED ENVIRONMENTAL ACTIONS:

A categorical exclusion from A.I.D.'s Initial Environmental Examination requirements is proposed. Most project resources will be used to finance technical assistance, training, and studies. There will be some limited commodity procurement. No construction is financed. A.I.D. Environmental Procedures 22 CFR Part 216.2 (c)(1)(i) and Section 216.2 (c)(2)(i) provide exclusions for programs which involve technical assistance and education.



REC'D S/S -IRM/RMD

9206244X

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT S/S *P. 24*



RIG ACTMEM TO OIS
COPIES TO ACTION MEMORANDUM

MEMORANDUM FOR THE SECRETARY

TO: The Deputy Secretary

THROUGH: T - Reginald Bartholomeu
DA/A.I.D., Mark L. Edelmann *[Signature]*

FROM: FM - Richard A. Clarke *[Signature]*
DD/POL, Larry Sifers *[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

811

23

assistance) have been initiated by A.I.D. and the Congress notified accordingly. These 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 ¹²eleven 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 _____

[Signature]

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)
- A-GC:TGeiger _____ (Draft)
- EUR/OSA:PO Farrell _____ (Draft)
- ENE/EUR:DMerrill _____ (Draft)
- GC/EUR:HMorris _____ (Draft)
- AA/R&D:RBissell _____ (Draft)
- STATE/L/EUR:TBuchwald _____ (Draft)
- STATE/EUR/ISCA/ECON:KVolker _____ (Draft)
- STATE/D/EEA:CRufenacht _____ *[Signature]*
- STATE/S/P:JHannah _____ *[Signature]*
- STATE/P:C.L.VanVoorst _____ *[Signature]*
- STATE/C:RWilson _____ *[Signature]*
- STATE/EB/IFD/ODF:LMoriarty _____ *[Signature]*
- STATE:H:CRAETHER _____ *[Signature]*

- Date: 2/19/92
- Date: 2/20/92
- Date: 2/20/92
- Date: 2/20/92
- Date: 2/20/92
- Date: 2/21/92
- Date: 2/28/92
- Date: 3/04/92
- Date: 3/5/92
- Date: 3/10/92, 3/11/92
- Date: 3/10/92
- Date: 3/11/92

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

TAB-A

C-2
S/S
S/S-S
TMA
TMS
PH
RF/rlw

ACTION MEMORANDUM

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

Decentralized Funds Control
11/27/91

*OCT 1961
LSE
HAS SEEN*

TO: The Deputy Secretary

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

FROM: PM-William P. Nops, Acting
D/POL, Larry Sifers, Acting

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

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, A.G., military and counter-terrorism procurement. In practice, however, it has at most a negligible effect in these other areas.

~~LIMITED OFFICIAL USE~~

*Decentralized
Kenneth T. Jones
11/27/91*

4/27/91

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" (PAA 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.

~~LIMITED OFFICIAL USE~~

Donna W. Kelly
Kenneth T. Jones

4/27/91

Keneth C. Fins
4/27/91

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 _____

[Signature]
OCT 31 1991

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 _____

[Signature]
OCT 31 1991

Attachment:

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

Declassified
Keneth C. Fins
4/27/91

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/PLR: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:CAelman (Draft) date 10/15/91
AID/AA/FA,(Acting):Jovens (Draft) date 9/25/91
AID/MS/PPE:JMurphy (Draft) date 9/25/91
E:RFauver

db

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

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

KEJ

28

1961

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

Memorandum for the Secretary of State
The White House
Washington, October 18, 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) in the interest 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 local procurement under the Foreign Assistance Act; and (2) if the price of any commodity procured is not less than the market price prevailing in the United States at the time of procurement, adjusted for discounts in the cost of transportation to destination, 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 substantial agreement with this principle, and trade and foreign policy objectives which I have previously endorsed, including my message on the balance of payments of February 8, 1961, already substantially provide this assurance.

As I indicated in that message, "our foreign economic assistance programs are now being administered in such a way as to place primary emphasis on the procurement of American goods... This restriction will be maintained until reasonable over-all equilibrium has been achieved." Under this policy, which is continued in force by my deter-

mination will contribute generally towards resolving our balance of payments difficulties, and also helps stimulate industries in labor surplus areas.

On the other hand, except 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, as provided below, advanced the economic development, thereby contributing to the objectives of the Economic Program and strengthening their capacity to support American products. Procurement of military material outside the United States is necessary, in some instances, 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 not 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. Upon certification by the Secretary of State, however, that inclusion of procurement in these countries would seriously impede attainment of U.S. 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 not 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. Upon certification by the Sec-

retary, the Secretary may authorize exceptions.

In the event U.S. foreign assistance programs are not available, and in the case of a surplus with the U.S. and other as recommended modification is not appropriate in paying funds from Foreign Assistance Act that provide United States will be seriously and adversely affected by the Secretary of State, the Secretary of Defense, and the Secretary of Commerce, shall be consulted and their views may be appropriate.

For the reasons stated above, I hereby direct that funds made available under the Foreign Assistance Act of 1961 for non-military programs not 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. Upon certification by the Secretary of State, however, that inclusion of procurement in these countries would seriously impede attainment of U.S. 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.

This determination shall be printed in the Federal Register.

John F. Kennedy

72 Stat. 61-1076; Pub. Law 87-105 (1961)

267.R.10543

Nov. 9, 1961



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

January 18, 1992

ACTION MEMORANDUM FOR THE ADMINISTRATOR

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

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.

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(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: 1-18-92

(UNCLASSIFIED WITHOUT CLASSIFIED ATTACHMENTS)

- 42

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

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

U:\CIS.TIC

(UNCLASSIFIED WITHOUT CLASSIFIED ATTACHMENTS)

ORIG PACKAGE RECEIPTED TO EUR-NILES

COPIES TO:

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United States Department of State

Washington, D. C. 20520

EXECUTIVE SECRETARIAT

112 FEB -5 A 8:15

FEB 3 1992

92 FEB -4 PD:14

ACTION MEMORANDUM *2/4*

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9202390Y

92 FEB -04 8:15



TO: D - Mr. Eagleburger

FROM: EUR - Thomas M.T. Niles
H - Janet G. Mullins *JKM*

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;

UNCLASSIFIED

- 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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45

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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 MA 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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46

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- 4 -

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

Cleared:

D/EEA - Mr. Lehovicht^h
P - Ms. van Voorst^h
EUR/ISCA - Ms. Griffiths
M/FYP - 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^{TS}
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



United States Department of State

Washington, D.C. 20520

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 1, Clause 1) 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:

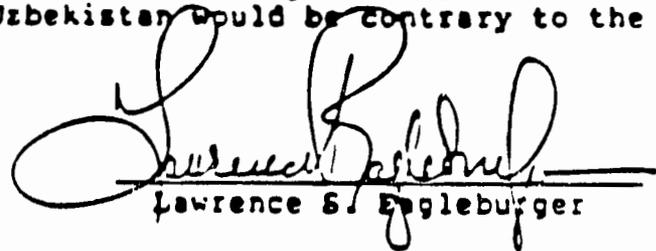
FOR THE GOVERNMENT OF
[NAME]:

52

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 H

MAR 25 1992

~~PERSON~~ ACTING

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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54

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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57

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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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

57

**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.

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.



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

TAB J

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:

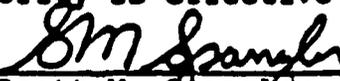
A. With respect to all former republics of the Soviet Union (except Latvia, Lithuania, and Estonia), there is delegated to the Director of the Task Force for the Newly Independent States of the Former Soviet Union all of the authorities delegated to me from the Administrator.

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

61