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AGENCY FOR INTERNATIONAL DEVELOPMENT

WASHINGTON, D.C

**AMENDMENT NO. 2
to the
PROJECT MEMORANDUM**

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

Approved: September 9, 1993



U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

SEP - 9 1993

ACTION MEMORANDUM FOR THE DIRECTOR, NIS TASK FORCE

THROUGH: Barbara Turner, Deputy Director, NIS Task Force *BT*
FROM: Carlos Pascual, ^{pbm} NIS/TF/PAC
SUBJECT: Authorization Request for Amendment No. 2 to the
Democratic Pluralism Initiatives Project Memorandum
(110-0007)

PROBLEM:

Your approval is needed to authorize a second amendment to the Democratic Pluralism Initiatives Project 110-0007 for the New Independent States (NIS). This will increase life-of-project (LOP) funding level to \$160 million in order to provide multi-year funding for two initiatives, the Rule of Law Consortium and Media Fund, which expand on existing project components. The new Project Assistance Completion Date (PACD) will be December 31, 1996. We plan to amend the project again at a later date to reflect the emphases of the Agency's new democracy strategy once it is finalized.

BACKGROUND:

AID's Democratic Pluralism Initiatives (DPI) Project was authorized April 10, 1992 with an LOP funding level of \$25 million and a PACD of April 1996. It was amended on February 3, 1993 to increase LOP funding to \$85 million in order to expand ongoing activities and add a new municipal management finance initiative under the local government component.

DPI was designed to help create and nurture democratic institutions, processes, and values in the New Independent States (NIS), in the wake of the collapse of communism and the Soviet economic system. Grounded in the belief that free markets and free societies go hand in hand, the DPI project is a crucial link

in the U.S. Government's primary goal of supporting the establishment of democracy and market economies in the countries of the NIS.

In the short term, the highest priority for U.S. democratic pluralism assistance must be on helping the New Independent States to build the political, legal and social institutions critical to the success of democratic and economic reform. Within this context, an important programmatic emphasis is on establishing the "Rule of Law" which, in its broadest sense, means an enforceable contract between the government and the governed which outlines mutual rights and responsibilities and serves as the basis for the political legitimacy of the government.

The DPI Project has four components, each targeted on a segment of NIS institutions currently involved in democratic and economic reform:

- Rule of Law - Experience in democratic market economies shows that political, economic and social development rely on the evolution of a comprehensive, consistent, transparent and reasonably predictable legal framework which provides a sound basis for political, economic and social decision-making. Such a framework extends beyond the substance of the law; it must incorporate the legislative, legal, judicial and regulatory institutions and procedures needed to generate, administer and enforce the legal framework. The American Bar Association is currently providing technical assistance and training for legal and judicial reform throughout the NIS. This amendment adds a Rule of Law Consortium as discussed in the Vancouver and Tokyo packages.
- Independent Media - Broad access to accurate information is a prerequisite for popular participation in a democratic system as well as for effectively functioning markets. Through an Interagency Agreement with USIA and grants to InterNews for activities in Russia and the Ukraine, AID is supporting the development of independent press, television and radio through training, technical assistance and equipment. This amendment adds an Independent Media Initiative as outlined in the Tokyo package.
- Democratic Governance and Public Administration - The breakup of the Soviet Union and frequent gridlock in political and economic decision-making at the center of the Russian and other NIS governments, has provided regional and local government with an opportunity to play a stronger role in directing economic and political development. However, local leaders need considerable assistance to reconceptualize the role of local government and supporting management systems in context of a market economy. A municipal finance and management activity was recently

initiated to assist reform-minded local governments in generating, managing and expending financial resources in ways which foster the private provision of previously public services and broad private sector growth.

- Political and Social Processes - Non-governmental organizations, including both the commercial and non-profit sectors, are the means by which individuals organize themselves in democratic societies to effect political, economic and social change. The National Democratic Institute, the International Republican Institute, the Free Trade Union Institute of the AFL-CIO and the International Foundation for Electoral Systems conduct activities supporting political party development, the emergence of civic organizations and independent labor unions and the conduct of free and fair elections.

CONSISTENCY WITH EVOLVING AGENCY DEMOCRACY STRATEGY:

All on-going and planned components of the NIS DPI Project are fully consistent with the Agency's evolving democracy strategy; aspects of the project may, however, need to be expanded or fine-tuned as the Agency strategy is finalized. The emerging Agency strategy places strong emphasis on sustainable democracy as both a means of encouraging sustainable development and as an end in and of itself. Moreover, the evolving Agency strategy highlights the importance of deploying AID resources for both rapid impact and longer-term democratic institution-building programs in countries such as those of the NIS which are in a transition to democracy. As a broadly designed regional project with four components, DPI has the flexibility to respond rapidly with pre- and post-electoral support, as well as to focus on sustainable democracy by supporting the emergence of increasingly democratic institutions such as non-governmental organizations, legislative, legal and judicial institutions and municipal governments. Finally, rule of law, independent media, democratic governance and public administration, and political and social processes are all arenas in which AID will continue to focus its democracy efforts in the coming years.

The Agency recognizes that countries and regions have differing social, political, economic, and cultural realities which will affect how democracy programs are implemented. To the maximum extent practical, the DPI project provides for the development of country specific action plans based on the priorities identified by the Mission and Country Team.

A variety of USG agencies are interested in being involved with democracy programs overseas. The NIS/TF is collaborating with various elements of the State Department, USIA, the Department of Justice, the Federal Judicial Center and other relevant agencies on democracy programs, involving them in program design and even funding targetted activities for their implementation, as appropriate. The DPI Project will continue to collaborate with

other USG agencies, with U.S. and indigenous NGOs and, increasingly with other bilateral and multilateral agencies over the life of the project.

Measurement of impact is important although difficult to achieve in the area of democratization. Program and project evaluation is built into the DPI project and efforts to measure project achievement will be central to all components. As a first step, preliminary evaluations of on-going activities will take place in fall 1993 to assess what lessons have been learned and to adopt successful implementation strategies to new activities. Other evaluations will be scheduled as appropriate.

DISCUSSION:

Based on implementation experience to date, and in response to the Vancouver Summit and the recent G7 meetings in Tokyo, the DPI Project is being amended in order to 1) implement an expanded Rule of Law (ROL) program and 2) increase support for independent media. Funding for the DPI Project will be authorized at \$160 million, an increase of \$75 million; in addition, the PACD will be extended until December 31, 1996 in order to complete the new activities. Attachment A provides a revised budget. Attachment B provides comparative budget figures relating to Amendment 1's budget and the revised budget -- which reflects the new agreements reached at the Vancouver Summit and Tokyo G7 meetings.

The DPI Project originally envisioned relatively limited ROL and independent media programs. However, increased understanding of the needs of individual NIS countries indicates that considerably more assistance will be required to support the systemic changes needed to spur and sustain the democratic and free market transformation processes. As a result, both the Vancouver and Tokyo packages include an expanded rule of law program. The Vancouver package also includes, at President Yeltsin's request, support for the phased introduction of jury trials in Russia. Finally, the Tokyo package includes an independent media initiative designed to support divestiture of media control from state to independent organizations. As a result of the expansion of the Rule of Law and Media components of the DPI project, there is a need to increase the authorized funding level for the DPI Project and extend the PACD accordingly.

Rule of Law: In general, the governments, the for-profit private sector and the private, non-profit organizations of the NIS recognize that successful political and economic transformation depend on adoption of the rule of law and democratic political practices. In each state, the leadership is tailoring its approach to local preferences, international and popular pressures, existing resources and structures, and the interests of powerful players in each arena. The states thus differ, not only in terms of commitment to reform, but also in the pace and nature of reforms. Therefore, each state faces a unique set of legal and political constraints impeding the transformation

process.

Following President Clinton and President Yeltsin's announcement at the Vancouver Summit that the U.S. would rapidly mobilize a Rule of Law "Consortium" to assist Russia in democratic transition, NIS/DIHHR quickly undertook to design this program. In early June, a PIO/T was sent to the Contracts Office for an NIS-wide Rule of Law Program, to be implemented through competitive procurement. Because the initiative exceeds authorized LOP funding, the PIO/T was approved for incremental funding using only funds previously authorized under 110-0007, and contained in the Rule of Law line item.

The Rule of Law Program will finance up to four competitively selected contracts to provide technical assistance and training to targeted regions in the development of country-specific legal and regulatory structures, including supporting legislative, legal and regulatory institutions. Until now, much of the assistance provided by the U.S. and other donors has focused on legal draftsmanship, particularly in specialized areas, e.g. oil and gas law, privatization requirements. Much less attention has been given to the more general, but critical, legal framework and foundations (e.g. the introduction of commercial codes); to procedure (e.g. rules of jurisdiction, discovery and evidence which have tremendous impact on the outcome of legal and regulatory processes); or to administrative law (the process by which governments become regulators rather than providers of specific services). Moreover, little assistance to date has focused on supporting the legislative, legal and regulatory institution building critical to effective adaptation of a rule of law regime. The expanded ROL program will build on experience to date, continue certain activities (e.g. drafting of laws) where relevant and, once country action plans are developed and approved, focus program resources on key legal/regulatory issues in each country. Approximately \$60 million will be for the ROL program.

Independent Media Initiative: An independent media not only provides information for effectively functioning markets and political participation; it also checks and balances the power of the executive in democratic societies. Across the NIS, the print, radio and electronic media are evolving toward varying degrees of independence. But many media operations remain dependent upon state-owned facilities and/or subsidies for their continued operation. The media industry is in its infancy; few media operations can be considered financially sustainable.

The media initiative, to be designed shortly, will support divestiture of key media functions from state to independent organizations. It will support financial sustainability of media enterprises through a range of interventions, potentially including but not limited to: increasing access to alternative information sources (international databases, news networks); strengthening business, management and journalism skills;

providing foreign exchange for equipment; and providing funds for U.S.-NIS media partnerships and/or coproductions. Presented at the Tokyo G-7 meeting as a Russia initiative, this activity will focus on Russia in the near term, but may be designed to allow expansion to other NIS countries as appropriate. Implementors will be selected through a competitive process. Approximately \$20 million is included in this authorization for the media initiative.

FIELD COMMENTS/PARTICIPATION: Each mission was given the opportunity to participate in development of the RFP and contractor selection processes for the Rule of Law Consortium; and all but Yerevan have begun making plans for field management of regional ROL contracts. Moscow has confirmed its support of the independent media initiative and will coordinate interagency design efforts in the field. More broadly, NIS/TF/DIHR is actively engaged with individual field Missions in identifying those elements of the democracy portfolio which can be most effectively managed in the field. These decisions, when finalized, will be fully reflected in the next amendment to this project memorandum.

LEGISLATION AND AUTHORITY: The Freedom Support Act (FSA) and the FY 1993 Appropriations Act (P.L. 102-391) contain several provisions that limit assistance or require the Executive Branch to take into consideration certain factors in providing assistance. Section 907 of the FSA bars United States assistance to the Government of Azerbaijan unless the President determines and reports to Congress that the GOA is taking demonstrable steps to cease all blockades and other offensive activity against Armenia and Nagorno-Karabakh. Thus the GOA will be eligible for assistance under this project only after the determination has been made. Assistance may still be provided to Azerbaijan, so long as it is not provided to the GOA.

Section 498A (a) of the Foreign Assistance Act of 1961, as amended, sets forth a number of matters that are to be taken into account in providing assistance to NIS countries, such as progress toward democracy and economic reform, human rights, peaceful resolution of ethnic disputes and restraining arms transfers. Section 498A (b) prohibits aid to any NIS country that violates any of a number of restrictions relating to matters such as human rights, arms control, nuclear proliferation, and with respect to Russia, withdrawal from the Baltics. The Secretary of State as Coordinator had reviewed memoranda dealing with these statutes for Armenia, Georgia, Kazakhstan, Russia, and Ukraine and decided to proceed with assistance to these countries. State advises that memoranda for the other countries are in process and we are in this way satisfying the 498A (a) criteria. The section 581 criteria (significant steps toward human rights implementation; political pluralism based on democratic principles and private property) have in fact been important considerations taken into account throughout the process of providing assistance to the NIS. State and A.I.D.

agree that Sections 581 and 489A (a) do not preclude providing assistance to these countries at this time.

Section 599 of the FAA sets forth restrictions on assistance which could have an adverse impact on U.S. employment or on workers' rights in the recipient countries. GC and PAC have developed standard clauses which will be incorporated in PIO/Ts for all grants and contracts and in the Interagency Agreements to ensure compliance with this section.

The Secretary of State signed a Section 620(f) determination to permit assistance for the states of the former Soviet Union on September 10, 1991. You have the authority to authorize the project pursuant to Interim Reorganization Delegation of Authority No. 10, dated March 30, 1992. The Congressional Notification for the Project expired on June 24, 1993 without objection so additional funds can be obligated. There are no outstanding waivers or policy concerns.

RECOMMENDATION: That you : 1) approve this action memorandum and the attached Project Authorization Amendment No. 2, thereby authorizing the amendment to the Democratic Pluralism Initiatives Project (110-0007) increasing LOP funding to \$160 million and extending the PACD to December 31, 1996; and 2) review and sign the attached Initial Environmental Examination for the project, thereby indicating your approval of its findings and implications for project implementation.

Approved: _____

WLB

Disapproved: _____

Date: SEP 10 1993

Attachments:

Project Authorization Amendment No. 2
Initial Environmental Examination

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PROJECT AUTHORIZATION AMENDMENT NUMBER 2

Name of Country: New Independent States (NIS)
Name of Project: Democratic Pluralism Initiatives
Number of Project: 110-0007

1. Pursuant to Sections 498B and 531 of the Foreign Assistance Act (FAA) of 1961, as amended, I hereby authorize Amendment No. 2 for the Democratic Pluralism Initiatives Project in the New Independent States. The life-of-project (LOP) funding is hereby increased from \$85 million to \$160 million in grant funds, subject to availability of funds in accordance with the AID OYB allotment process, to help in financing foreign exchange and local currency costs of the Project. The planned life of project has been extended to December 31, 1996. All other conditions remain the same.

MB

Malcolm Butler
Director, Task Force
New Independent States

SEP 10 1993

Date

Clearances (Project No. 110-0007: Action Memorandum and Authorization Amendment No. 2)

A.I.D.:

NIS/TF/DIHR:	GDonnelly	(draft)	Date:	7/8/93
	MARiegelman	(draft)	Date:	7/8/93
	KLoken	(draft)	Date:	7/8/93
NIS/TF/FA:	BKline	(draft)	Date:	7/16/93
OP/CC/N:	CMallay	(draft)	Date:	7/19/93
GC/NIS:	PRamsey	(draft)	Date:	7/16/93
NIS/TF/EET:	DLong	(draft)	Date:	7/16/93

STATE:

S/NIS:	RDiCarlo	(draft)	Date:	7/20/93
EUR/ISCA:	NCook	(draft)	Date:	7/22/93

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**EXAMINATION OF THE NATURE, SCOPE AND MAGNITUDE
OF THE ENVIRONMENTAL IMPACT OF
THE DEMOCRATIC PLURALISM INITIATIVES PROJECT (110-0007)**

A. PROGRAM DESCRIPTION

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: political and social processes, rule of law, democratic governance and public administration, and independent media.

Activities under the first component include political party development, election monitoring, development of an independent labor union movement, and civic education. Under the second, the project provides technical assistance and training to NIS judicial officials in areas such as constitutional and legal reform, criminal and civil codes, establishment of due process of law including strengthening of public and private institutions in support of this. Democratic governance and public administration support involves training and technical assistance for newly elected legislatures and reform-minded local governments to establish policies and procedures which are both democratic and effective. A local government initiative under this project component provides training, technical assistance and limited commodities to municipalities to improve financial management systems and practices. Finally, media activities include training of independent journalists in production and management techniques, establishment of media centers as resource centers, provision of commodities such as satellite dishes and access to more diversified information sources.

B. RECOMMENDED ENVIRONMENTAL ACTION

A categorical exclusion from A.I.D.'s Initial Environmental Examination requirement is proposed. Most project resources will be used to finance technical assistance and training. There will be limited commodity procurement. No construction will be financed. A.I.D. Environmental Procedures 22 CFR Part 216.2 (c) (1) (i) and Section 216 (c) (2) (i) provide exclusions for programs which involve technical assistance and education.

ATTACHMENT B--COMPARATIVE BUDGET FIGURES--DEMOCRATIC PLURALISM INITIATIVES

COMPONENT	AMENDMENT #1 BUDGET	REVISED BUDGET
1. POL/SOC. PROCESS		
SUBTOTAL:	\$16,700,000	\$21,230,000
2. INDEPENDENT MEDIA		
-- INDEPENDENT TV	\$4,100,000	\$2,600,000
-- JOURNALIST TRAINING	\$3,500,000	\$2,000,000
-- MEDIA CENTERS	\$9,000,000	\$8,300,000
-- MEDIA INITIATIVE	\$0	\$20,000,000
SUBTOTAL:	\$16,600,000	\$32,900,000
3. RULE OF LAW		
-- INSTITUTIONAL FRAMEWORK	\$9,000,000	\$900,000
-- JUDICIAL TRAINING	\$2,200,000	\$2,300,000
-- LEGAL ASSISTANCE	\$3,500,000	\$2,400,000
-- ROL CONSORTIUM	\$0	\$59,900,000
SUBTOTAL:	\$14,700,000	\$65,500,000
4. GOVERN/PUB. ADMIN.		
SUBTOTAL:	\$35,350,000	\$37,400,000
5. TECHNICAL ASSISTANCE		
SUBTOTAL:	\$1,450,000	\$2,570,000
6. EVALUATION		
SUBTOTAL:	\$200,000	\$400,000
TOTALS:	\$85,000,000	\$160,000,000

ILLUSTRATIVE BUDGET -- DEMOCRATIC PLURALISM INITIATIVES

COMPONENT	FY 92	FY 93	FY 94	FY 95	Totals
1. POLITICAL PROCESS					
Pol. Party/Civ. Org.	\$3,700,000	\$4,000,000	\$3,130,000	\$3,600,000	\$14,430,000
Labor Unions	\$800,000	\$1,000,000	\$1,000,000	\$500,000	\$3,300,000
Elections	\$500,000	\$1,000,000	\$1,000,000	\$1,000,000	\$3,500,000
SUBTOTAL	\$5,000,000	\$6,000,000	\$5,130,000	\$5,100,000	\$21,230,000
2. INDEPENDENT MEDIA					
Independent TV	\$1,100,000	\$1,000,000	\$500,000		\$2,600,000
Journalist Training		\$2,000,000			\$2,000,000
Media Centers		\$5,000,000	\$3,300,000		\$8,300,000
Media Initiative			\$7,000,000	\$13,000,000	\$20,000,000
SUBTOTAL	\$1,100,000	\$8,000,000	\$10,800,000	\$13,000,000	\$32,900,000
3. RULE OF LAW					
Institutional Framework		\$900,000			\$900,000
Judicial Training	\$200,000	\$1,600,000	\$500,000		\$2,300,000
Legal Assistance	\$1,000,000	\$1,400,000			\$2,400,000
ROL Consortium		\$6,400,000	\$25,800,000	\$27,700,000	\$59,900,000
SUBTOTAL	\$1,200,000	\$10,300,000	\$26,300,000	\$27,700,000	\$65,500,000
4. GOVERN./PUB. ADMIN.					
Civil-Military	\$700,000				\$700,000
Parliament Support		\$1,400,000	\$3,200,000	\$2,000,000	\$6,600,000
Local Government		\$7,300,000	\$11,400,000	\$11,400,000	\$30,100,000
SUBTOTAL	\$700,000	\$8,700,000	\$14,600,000	\$13,400,000	\$37,400,000
5. TECH. ASSISTANCE	\$100,000	\$700,000	\$1,770,000		\$2,570,000
6. EVALUATION			\$200,000	\$200,000	\$400,000
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TOTALS	\$8,100,000	\$33,700,000	\$58,800,000	\$59,400,000	\$160,000,000