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FROM: Vice President and Secretary

September 16, 1999

Transitional Support Strategy for Kosovo

Attached is a President's memorandum entitled "Transitional Support Strategy for Kosovo" dated September 15, 1999.

Questions on this document should be referred to Mr. Poortman (X33011) or Ms. Sheehan (X39383).

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ABBREVIATIONS AND ACRONYMS

| | |
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| EBRD | European Bank for Reconstruction and Development |
| EC | European Commission |
| ECHO | European Commission Humanitarian Office |
| EIB | European Investment Bank |
| FAO | Food and Agriculture Organization |
| FRY | Federal Republic of Yugoslavia |
| FYROM | Former Yugoslav Republic of Macedonia |
| HLSG | High Level Steering Group |
| KFOR | Kosovo Force |
| KLA | Kosovo Liberation Army |
| LDK | Democratic League of Kosovo |
| NGO | Non-governmental organization |
| SEE | Southeastern Europe |
| SFRY | Socialist Federal Republic of Yugoslavia |
| SME | Small and medium enterprises |
| SRSG | Special Representative of the Secretary General |
| TFK | Trust Fund for Kosovo |
| TSS | Transitional Support Strategy |
| UN | United Nations |
| UNSC | United Nations Security Council |
| UNHCR | United Nations High Commissioner for Refugees |
| UNICEF | United Nations Children's Fund |
| UNMIK | United Nations Mission in Kosovo |
| WFP | World Food Program |
| WHO | World Health Organization |

Memorandum to the Executive Directors of IBRD and IDA
Transitional Support Strategy for Kosovo

Table of Contents

| | | |
|------|--|----|
| I. | Introduction | 1 |
| II. | Background | 1 |
| | Recent Events | 1 |
| | Developments in the Southeast Europe Region | 2 |
| III. | Kosovo's Political and Economic Context | 3 |
| | Governance Structures | 3 |
| | Economic Situation | 4 |
| | Post-Conflict Challenges | 5 |
| IV. | A Reconstruction and Recovery Program for Kosovo | 6 |
| | Building Institutions | 6 |
| | Rehabilitating Community Services and Repairing Infrastructure | 6 |
| | Restoring and Upgrading Social Services | 7 |
| | Restarting Economic Activity | 8 |
| | Donor Partnerships | 8 |
| V. | The World Bank's Transitional Support Strategy for Kosovo | 9 |
| VI. | Risk Management | 12 |
| VII. | Recommendation | 13 |

Transitional Support Strategy for Kosovo

I. Introduction

1. The Board has been briefed on developments in the Balkans at regular intervals over the course of the last six months, and in particular on proposed emergency support for Kosovo at the informal meeting with Executive Directors held on July 8, 1999. The United Nations (UN) Security Council Resolution that brought an end to the recent conflict calls for a coordinated international effort to support Kosovo's post-conflict reconstruction and recovery.¹ It is in response to this request that Bank² assistance is proposed. Kosovo is a province of the Republic of Serbia, one of the two constituent republics of the Federal Republic of Yugoslavia (FRY). The former Yugoslavia (Socialist Federal Republic of Yugoslavia) ceased to be a member of the World Bank Group in February 1993 and FRY has not succeeded to the membership of the SFRY in the Bank Group organizations.³ Nevertheless, the use of Bank resources and facilities in the form of assistance to Kosovo proposed in this memorandum would benefit members as a whole by contributing to a more peaceful and prosperous economic future for the Southeastern Europe (SEE) region. Moreover, in the context of the Bank's role as co-chair of the SEE High Level Steering Group of international donors, Bank support to Kosovo is also likely to be a catalytic factor in raising additional support in a broad international donor effort.

2. At its July 29 meeting, the Executive Directors of the Bank recommended to the Board of Governors, as part of the allocation of FY99 net income, that US\$25 million be transferred from surplus to provide emergency rehabilitation assistance for Kosovo. If the Board of Governors approves the transfer, this would take place at such time and in such manner as the Executive Directors decide.⁴ This memorandum sets out a Transitional Support Strategy (TSS) for Bank assistance to Kosovo over the next 18 months, including a proposal to establish a Trust Fund for Kosovo with proceeds of the net income earmarked against surplus, to enable the Bank to respond to this call to the international community. This memorandum adds to the earlier paper outlining a framework for emergency assistance to Kosovo by setting out the legal status and governance structure of the province which were not yet fully defined in early July, as well as details on damage from the conflict, also not available at that time.⁵ The legal issues relating to Bank assistance to Kosovo as a non-member are addressed in Annex 1.

II. Background

Recent Events

3. *The Spring 1999 Crisis in Kosovo.* While tension between the majority Albanian and minority Serb populations in Kosovo has a long history, the recent conflict was the result of increasing hostility between the FRY authorities and an emerging Kosovo Liberation Army (KLA) in 1996-97. Sporadic fighting during 1998 ended in truce and peace talks in early 1999. These talks were inconclusive, however.⁶ Conflict resumed, with damage and the flight of many Kosovars. With renewed hostilities,

¹ UN Security Council Resolution 1244, June 10, 1999.

² The term "Bank," wherever used in this paper, refers collectively to the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA).

³ Annex 1 describes the conditions for succession to membership in the World Bank Group which were defined by the Executive Directors in February 1993.

⁴ *Allocation of FY99 Net Income, Transfer from Surplus, and Waivers of Loan Charges for FY00*, July 20, 1999 (R99-143).

⁵ The paper *Proposed World Bank Response to Post Conflict Reconstruction in Kosovo: General Framework For An Emergency Assistance Strategy* (July 1999) was discussed at the informal meeting of Board members held July 8, 1999.

⁶ A draft peace accord (*Interim Agreement for Peace and Self-Government in Kosovo*, or the "Rambouillet Accord") was discussed and agreed to in March 1999, by the Kosovar Albanians but was not accepted by the FRY authorities.

NATO threatened to use force to bring the parties to agreement, and, when this failed to end the conflict, on March 24, 1999, began bombing FRY. The subsequent two and a half months saw a massive exodus of Kosovars from their homes along with further destruction. Finally, internationally-brokered peace principles were agreed between the FRY authorities and the Kosovar Albanians in early June. On June 10, 1999, the UN Security Council (SC) approved Resolution 1244 which brought a formal end to the hostilities and authorized deployment of an international security force (KFOR). The Resolution also established a UN-managed civilian administration, the UN Mission in Kosovo (UNMIK), as the transitional administration of the province. As of end August of this year, some 90 percent of the Albanian Kosovars who had fled the province in early 1999 were estimated to have returned – an unprecedented pace of return that demonstrates a strong commitment to restarting normal life. However, it is also estimated that on the order of 180,000 Serb Kosovars – the vast majority of those living in Kosovo before the conflict – have now left the province.

4. *The International Response.* The UNSC Resolution also called for a rapid international response to support economic reconstruction and recovery in Kosovo, and this response has been swift. Humanitarian assistance to returning refugees, coordinated by the UN High Commissioner for Refugees (UNHCR) and supported by many other agencies and donors, has been organized and underway in Kosovo since mid-June. A first donors' meeting, held July 28, 1999, and co-chaired by the European Commission (EC) and the Bank, raised some US\$2 billion from over twenty bilateral and multilateral donors for humanitarian aid, early reconstruction efforts and urgent budget support. Damage assessments have been prepared, and a medium-term Reconstruction and Recovery Program – that will set out priority financing needs for both the near and medium term – is being completed and will be presented at a second donors' meeting in October 1999 (paras. 15-22).

Developments in the Southeast Europe Region

5. *The Effects of Longer-Term Crisis.* The 1990s has been a difficult decade for Albania, Bosnia and Herzegovina, Bulgaria, Croatia, FRY, the former Yugoslav Republic of Macedonia (FYROM) and Romania – the current seven non-European Union (EU) countries of the SEE region. Recent events in Kosovo are part of a longer-term crisis that began in the late 1980s with the economic decline and break-up of the SFRY, during which four of its former republics gained independence largely through armed conflict. While the decade also saw most of the countries in the region initiate or undergo transition reforms – and incur the consequences of related economic policy choices – the effects of SFRY's break-up made more painful and difficult the adjustment process for many countries. The human losses and negative economic impact of conflict itself have been particularly harsh in Croatia and Bosnia and Herzegovina, while countries of the region suffered to varying degrees from the effects of international economic sanctions on FRY. The decade of the 1990s left many of the region's inhabitants worse off economically than they were at the end of the 1980s.

6. *The Impact of the Recent Conflict.* The Spring 1999 conflict in Kosovo had a significant impact on these neighboring countries. Hundreds of thousands of refugees put a strain on social and economic infrastructure, in particular in Albania and FYROM. The conflict disrupted trade, transport and tourism, and affected the confidence of foreign investors in much of the region. Budgetary gaps increased with lost fiscal revenues as a result of lower incomes, and from disruption of customs collection and expenditures related to refugees. Lost export earnings, trade diversions, and higher debt service costs widened incremental balance of payments gaps, estimated most recently in cumulative terms at around US\$1 billion for 1999.⁷ Economic growth is expected to slow significantly in 1999 in these countries. While incremental international assistance has been made available, including from the Bank, external

⁷ In the context of a special international meeting during the April 1999 Bank-Fund Spring Meetings an initial assessment of the cost of the crisis was presented; the assessment has been periodically updated, most recently by the IMF as of July 8, 1999.

financing gaps remain.⁸ Meanwhile, FRY has suffered massive economic contraction and faces severe hardship this winter.

7. *The “Stability Pact” for Southeast Europe.* To address the more medium- to long-term needs for lasting peace and economic recovery in the region, an EU-proposed “Stability Pact” was endorsed by over forty nations and organizations on July 30, 1999. The Stability Pact provides a broad political framework for the Balkan countries to accelerate their integration into the Euro-Atlantic structures, and envisions these countries successfully making the transition to market-based economies.⁹ FRY is seen as a critical partner, eligible to join the Pact once political conditions there allow. The Stability Pact establishes a political coordination mechanism that includes the creation of a Southeastern Europe Regional Table and the appointment of a Special Coordinator. Under the Regional Table, three Working Tables have been established: (i) Democratization and Human Rights; (ii) Economic Reconstruction, Development and Cooperation; and (iii) Security.

8. *The High-Level Steering Group.* The EC and the Bank have been given a special mandate for “coordination of matters related to the economic recovery, reform and reconstruction of the SEE Region,” including (i) economic analysis, estimation of needs, and assessment of priorities for external financing; (ii) harmonization of criteria and conditions for external support; and (iii) review of implementation of donor support programs.¹⁰ A High Level Steering Group (HLSG) – and an expert-level working group with which the Bank and the EC deal on an ongoing basis – oversees this mandate. The HLSG is currently focussing on the priorities and next steps for reconstruction in Kosovo, but also has reviewed the impact of the crisis on neighboring countries and the international community’s response, and has discussed the longer-term aspects of development of the region. The HLSG will interact with the Stability Pact – and in particular with the Working Table on Economic Reconstruction, Development and Cooperation – on the development and financing of regional initiatives. To this end, work programs are being formulated under which international financial institutions and others will develop, according to their comparative advantage, proposals in areas such as regional trade, infrastructure, and private sector development, as well as longer term economic integration. The aid coordination work of the EC and the Bank in Kosovo is an important element of the Bank’s proposed strategy (para. 24).

III. Kosovo’s Political and Economic Context

Governance Structures

9. *Pre-Conflict Governance.* Kosovo is a small mountainous province of about 11,000 square kilometers (the size of Jamaica), with a population on the order of two million before the recent conflict. As one of the Republic of Serbia’s two autonomous provinces, Kosovo had in practice many of the rights and obligations of the six SFRY republics. Under SFRY’s 1974 constitution, Kosovo had its own judiciary, police, and education and health policies. Governance was further decentralized, with many responsibilities for service delivery in the hands of the municipalities (or “communes.”) Following 1989-90 constitutional changes, however, Kosovo’s autonomy was significantly restricted: Serbia assumed

⁸ While the subject of this Memorandum is the Bank’s support strategy for Kosovo, the Bank also has programs in the six neighboring countries of the SEE region which include assistance, as appropriate, to adjust for the impact of the recent crisis. A regional Balkan Group ensures coordination and consistency among these country programs and is tasked with identifying regional initiatives in which Bank involvement might be appropriate. This Group liaises closely with the joint Bank-EC coordination office in Brussels (footnote 10). Finally, through its continuing Balkan Watch Brief, the Bank actively monitors developments in the remainder of FRY.

⁹ *Stability Pact For South Eastern Europe*, June 10, 1999, and *Sarajevo Summit Declaration*, July 30, 1999.

¹⁰ *Paper on Coordination Arrangements for the Economic Recovery and Reconstruction of the Balkans in Response to the Kosovo Crisis*, EC-Bank, June 10, 1999. To help implement this joint mandate, an EC-Bank joint office for coordination in the SEE Region has been opened in Brussels, and a website providing information on the Balkans launched.

control over Kosovo's police and economic policies; ethnic Serbs replaced ethnic Albanians in many public sector jobs; and Albanian-owned companies were taken over in joint ventures with Serb-owned companies. The predominant response to these so-called "enforced measures" among Kosovar Albanians was to support parallel institutions. In 1992, an assembly of the "Kosovo Republic" was informally voted in, and the head of the Democratic League of Kosovo (LDK) elected its "President." A parallel network of services, in particular education and health, grew and became relatively well developed. Administration was funded by informal levies on diaspora remittances and domestic economic activity.

10. *Current Legal Status and Interim Arrangements.* Under UNSC Resolution 1244, Kosovo remains a province of Serbia, but is to have "substantial autonomy and meaningful self-administration" while the "sovereignty and territorial integrity of the FRY" continue to be recognized. The Resolution establishes UNMIK as the transitional administration. The powers vested in UNMIK – and its head, the Special Representative of the Secretary General (SRS)G – include "all legislative and executive authority ... including the administration of the judiciary."¹¹ UNMIK has four "pillars" or areas of accountability: (i) humanitarian issues; (ii) civil administration; (iii) democracy building and elections; and (iv) reconstruction, recovery and economic development. Although the precise division of responsibilities is still being clarified, most economic matters will be handled between pillars (ii) and (iv). The latter will have most of the functions of a finance ministry, including budget execution and implementation of economic policies, while the responsibilities of the former include implementation of sectoral programs. These pillars have been established and staffed largely by international agencies. The UN has requested assistance of the Bretton Woods Institutions to advise in the development of pillars (ii) and (iv). This support has been underway since July, and is a key element of the Bank's strategy in Kosovo (para. 24).

11. *Plans for Transition to Self-Government.* UNSC Resolution 1244 also provides that UNMIK is to be replaced over time with democratic self-governing local institutions. These would be, in the first instance, "provisional institutions," and in time, under a final stage, UNMIK would oversee transfer of authority from these provisional structures to more permanent arrangements under an eventual political settlement for the province. The SRS)G has announced the intention to hold local elections by mid-2000 to establish the provisional institutions. In order to help prepare for this first phase of self-governance, a Kosovo Transition Council has been established including representatives of Kosovo's Albanian, Serb and other ethnic groups. The Transition Council is designed to be Kosovo's highest political consultative body, providing the main parties with a forum for direct input into the decisions of UNMIK. In addition, Joint Civil Commissions have been established comprised of both Serb and Albanian Kosovars in the areas of health, education, justice, family care, public utilities, economy and finance and media and are formulating plans for eventual transition to local government in these areas. Local transition councils are also to be established at the district level, and in each of Kosovo's 29 communes. However, there is little clarity on the ground as to the precise path of transition from the internationally-led interim administration to the provisional structures, and beyond this to permanent local governance.

Economic Situation

12. *Pre-Conflict Economy.* Kosovo has a rich mineral and natural resource base, and fertile agricultural land. Over the last two decades, economic activity has centered on the extractive industries and production of raw materials and semi-finished products (lead, coal, zinc and some textiles), and agriculture. The policy and regulatory environment was based on Yugoslav-style socialism and heavy industry was largely state and socially-owned. More than 60 percent of the pre-conflict population lived in rural areas, and agriculture was nearly universally privately held. However, despite its economic potential, Kosovo has traditionally been SFRY's poorest province. During the 1970s-80s, Kosovo's development became a priority for the SFRY government. The province received significant investment

¹¹ Regulation No. 1999/1 "On the Authority of the Interim Administration in Kosovo," July 25, 1999.

resources from SFRY's Federal Fund for Development of Less-Developed Regions (as well as significant assistance from IBRD, either directly or as part of larger loans to SFRY). This financing largely benefited the capital intensive extractive industries and infrastructure. Nevertheless, Kosovo's GDP remained far behind the SFRY average due to the lack of value-added activities in the province, and apparent poor management of economic assets. Over the five years following imposition of the enforced measures in 1989-90 (para. 9), GDP contracted by 50 percent, falling to less than \$400 per capita by 1995, according to official statistics. In that year industry and agriculture were each responsible for about one-third of GDP, with trade and commercial activities accounting for the remainder. Unemployment was already high before the recent conflict due both to the impact on the predominantly Albanian population of the 1989-90 measures, as well as to the longer-term impacts of regional crisis.

13. *Economic Impact of the Conflict.* The economic consequences of the Spring 1999 conflict were severe, in a province already deep in economic decline and social stress. Industrial output collapsed and agriculture production plummeted, with herds lost or killed and the planting season missed. Actual conflict-related damage is concentrated on private housing – both urban and rural, in particular in the west of the province – and some infrastructure. The private homes that were used to provide parallel health and education services were also badly damaged. Among the most significant impacts of the recent conflict, however, was the massive flight of people from their homes and the dislocation that this caused. Of the province's estimated near two million pre-conflict population (80-90 percent Albanian), it is thought that over 800,000 Kosovar Albanians fled to neighboring Albania, FYROM, Bosnia and Herzegovina and parts of the FRY (plus tens of thousands to other countries) during the course of the conflict. More than 500,000 were internally displaced, and over 10,000 killed. Over 100,000 Serbs had also fled Kosovo by the end of the hostilities.¹² With this exodus, many institutions lost their staffing and management. While by late August most Albanian refugees had returned, Serb Kosovars have now fled in even larger numbers. Unemployment remains extremely high and official per capita incomes low. A large flow of remittances from the Albanian diaspora mainly in Western Europe, and earnings from a growing informal sector, provide additional incomes for many.

Post-Conflict Challenges

14. *A Complex Post-Conflict Task.* The task ahead is to rebuild an economy that can provide peace and prosperity for its citizens, regardless of the terms of an eventual political settlement. The lessons of other post conflict situations indicate that this will not be easily or quickly done. The capacity to absorb donor technical and financial support will need to be carefully monitored. The unclear nature of a future political settlement creates an environment of uncertainty. Kosovo's recovery will involve discrete challenges that need to be addressed in large part simultaneously – leading the UN to characterize it as a “new type of complex emergency” that requires a well-coordinated effort. Among these challenges are:

- *Meeting Near-Term Needs.* Over the next three to six months the key issue will be to survive the winter, with sufficient humanitarian food aid, shelter, heat and power, as well as employment opportunities and near-term social assistance. Urgent priorities will require quick financing from donors. Over time, the transition from relief to reconstruction will call for effective aid coordination.
- *Putting in Place Effective Public Institutions and Policies.* The challenge of moving from a temporary international administration to new local structures will be great. Moreover, for the past decade, the majority ethnic Albanian population has been largely absent from official government institutions. Over this period, there has been both substantial erosion of human capital as well as emigration of many qualified personnel. Public institutions and policies must be recreated, both to meet short term needs – including staffing of public sector institutions and funding recurrent expenditures – as well as to begin the important longer-term process of institution strengthening.

¹² Based on UNHCR data as of June 1999.

- *Repairing the Damage of Conflict.* Conflict-related damage to community, social and network infrastructure sectors will need to be quickly repaired. But physical damage goes much beyond such direct destruction. Many areas of the economy suffered from a decade of neglect of basic maintenance and inability to provide for proper operational expenditures. Ensuring physical rebuilding is effectively and efficiently implemented will require sound priority-setting and close coordination among donors and between donors and the authorities. Damage from the conflict also has a significant human dimension, and these scars are not likely to be mended quickly.
- *Restarting Economic Activity and Beginning Transition.* There is evidence that many Kosovars would like to move quickly beyond relief to restarting economic activity, especially Kosovo's many farms and small private trade and services firms. The latter are likely to be an important catalyst for economic restart and employment. To be successful, the recovery program will have to be accompanied by reforms that will bring increased private sector opportunity. Improved economic links with its neighbors in the region will also be key to Kosovo's future prosperity. However, it is clear that long-run economically sustainable growth will also depend critically on restoration of growth in FRY.

IV. A Reconstruction and Recovery Program for Kosovo

15. The Bank and the EC are working with UNMIK, local representatives, and other donors to prepare a four- to five-year Reconstruction and Recovery Program, which will build on recently-completed damage assessments and on the humanitarian activities currently underway. The broad outlines of the Program, based on field work done over the past several months, are likely to focus on four areas:

Building Government Institutions and Policies

16. Strengthening existing institutions and setting up new institutions and policies for economic management are urgent near term tasks. Building the economic and sectoral management capacity of UNMIK is already underway with the help of donors. Public revenues have until recently been virtually non-existent and their future level will depend on an appropriate tax regime and the ability of the government to enforce and collect taxes, among other factors. In the meantime, a portion of essential public services will have to be externally financed for an interim period. A fiscal management agency is being created to ensure that appropriate budgets are formulated and financed. The payments system, which was interrupted by the conflict, must be restarted quickly and made more efficient to ensure processing of financial transactions. Technical assistance, training and provision for salary support for local staff to operate and manage public utilities is another near term priority. Building the judiciary and courts, a local policing capacity and the framework for elections will also be important. Over time, strengthening institutional capacity throughout the public sector will be an essential goal, and will increasingly need to focus such groups as the transition councils, joint civil commissions and others to help ensure a effective transition from international to local civil administration.

Rehabilitating Community Services and Repairing Infrastructure

17. Local community services, in particular housing, were badly damaged during the conflict. Infrastructure networks, on the other hand, suffered relatively little direct damage from the conflict, except for telecommunications. But looting and lack of maintenance in these sectors have been pervasive over the last decade, and mitigating their consequences will require substantial external support. As a common requirement in all sectors, adequate systems should be rapidly set to manage, operate and finance these systems by strengthening institutions (as above) and developing sustainable financing mechanisms. Although mine pollution is not thought to be as severe a problem as it was in Bosnia and Herzegovina, demining and removal of unexploded ordinance will be required in many sectors as a

prerequisite to rehabilitation. Setting of precise sectoral priorities is now being discussed with UNMIK and other partners. Among the most important needs:

- *Housing.* It is estimated that about a third of the housing units in rural areas have been destroyed, and another third require major repairs. Many Kosovars have already started rebuilding their homes, and assistance should build on these efforts by providing access to building materials.
- *Telecommunications.* Damage included destruction of two transmission towers and central switching equipment in Pristina, which has made communications extremely limited (GSM functions on a limited basis). A new international link should also be installed to complement the existing one that goes through the Republic of Serbia, and switches and connections may have to be restored in some areas. These works are urgently required as a pre-condition for re-establishing economic activity.
- *Electric Power.* Kosovo's two power plants and associated coal mines suffered acute lack of maintenance over the last decade, rather than direct damage. However an important near-term constraint is lack of adequate staffing and management. Urgent needs include works to safeguard power supplies for the coming winter. More medium-term needs will involve rehabilitation of generation and dispatching, as well as environmental mitigation for the plants and coal mines.
- *Water and Wastes.* These local services suffered unevenly and damage is heaviest in the province's western region. Poor levels of sewerage and solid waste collection and disposal services – and the attendant implications for public health and the environment – are important concerns.
- *Transport.* Some thirteen highway bridges were destroyed in the conflict. Most of these are likely to be repaired on at least a temporary basis by the international military to facilitate troop movements. Both the rail system and the Pristina airport will require some investment and repair. But most financial needs are related to decades of lack of maintenance, in particular for roads.

Restoring and Upgrading Social Services

18. *Health and Education.* Parallel systems of education and health that developed during the 1990s have re-emerged after the conflict. These systems should be built on – by mainstreaming and upgrading – rather than developing new structures. Financial assistance will be needed for reconstruction of damaged buildings, but this should be preceded by an assessment, since fewer larger and better equipped facilities (in particular in the health sector) may be more appropriate. Financial support will also be required, on a decreasing basis, for recurrent costs including salaries and replacement of equipment (medical equipment, school books and supplies, etc.) that was stolen or destroyed. This is critical for ensuring continued delivery of essential services until tax revenues can be raised. Policy reforms over time should aim to enable these sectors to better meet the needs of a market economy.

19. *Social Protection.* Social assistance has traditionally rested on pensions (both from FRY and from foreign countries for those who have worked abroad), support from the Albanian diaspora, and traditional extended family structures. In the interim, these formal and informal mechanisms are now complemented by humanitarian aid. This assistance will continue to be needed on a declining basis, while a sustainable program of social protection is needed as humanitarian support phases down. Among the lessons of other post-conflict situations is that this transition must be carefully managed.

Restarting Economic Activity

20. *Agriculture.* Agriculture production and agro-processing virtually ceased as a direct consequence of the conflict, dramatically affecting life for a majority of Kosovo's residents. Many previous rural dwellers have relocated to urban areas, seeking employment until the new planting season. Near-term needs include rapid provision of inputs to farmers (seeds, fertilizer, and fuel) and agro-processing enterprises (spare parts and consumables) to enable the sector to begin to provide food, employment and

incomes. Over the more medium term, needs include provision of credit to agro-processing companies, and assistance to ensure proper management of forestry. Policy reforms will be needed to privatize agro-processing, and to ensure the phasing out or monetization of food aid.

21. **Enterprise and Banking Activity.** Industry, now at a near standstill, shows a visible pattern of neglect over the last decade, including potential environmental damage from heavy extractive industries. The banking system has collapsed with the conflict. Unemployment is widespread. But returning Kosovars show a great deal of entrepreneurial initiative, and the trading and service sectors (which accounted for more than 90 percent of the province's pre-conflict private companies) are responding rapidly to the new situation by seizing opportunities created by relief and reconstruction activities. Among the priorities to encourage further private sector activity are developing an adequate policy and regulatory framework that removes obstacles to establishment of new firms and is conducive to private sector development. Rehabilitation of the financial sector, including establishment of a payments system, attraction of foreign banks, and a start to bank supervision are near term needs. Privatization of the large conglomerates is likely to take some time due to the complexity of ownership issues in Kosovo, and private SMEs in the services and trading sectors are likely to lead recovery in the near term.

Donor Partnerships

22. **Coordination with Other Donors.** Partnerships among the many donors involved in Kosovo will be essential to a successful reconstruction and recovery effort. Our partnerships in particular with the UN agencies and the EU – both of which are taking leadership roles in Kosovo's reconstruction – will be critical to ensuring effective implementation of the Bank's strategy. The special partnership between the World Bank and the EC for aid coordination of donor-supported development activities in the SEE region will be important in Kosovo. A detailed sector-by-sector assessment of donor support will only be possible following the planned October 1999 donors' conference. Nevertheless, a general view of current donor programs and plans is important in defining the nature of Bank support (Box 1).

Box 1. The Programs of Donor Partners

- **UN Agencies.** The UN has assumed the leadership role in post-conflict efforts to build a peaceful and prosperous Kosovo through its administration of UNMIK, as well as through the humanitarian role which it will implement through UNHCR (which has responsibility for UNMIK's "pillar (i)," and other UN agencies and affiliated NGOs. UNICEF, WHO, FAO, WFP and others have been involved in assessing sectoral needs and providing food aid, health care, education services, water and sanitation, social assistance and agricultural inputs, among others.
- **The EU (and EC).** The EU has been involved through its European Commission Humanitarian Office (ECHO) in funding humanitarian support, and has been asked to manage the reconstruction, recovery and economic development arm of UNMIK. The EC is establishing a "Reconstruction Agency" which will be responsible for implementation of its substantial planned financial assistance for reconstruction. (The agency will be functional this fall; in the meantime a Task Force ("TAFKO") has been fielded which is beginning the work of the Agency.)
- **Other Multilaterals.** Both the EBRD and the EIB are actively interested in supporting reconstruction in Kosovo and have formulated support strategies. Both are likely to support infrastructure, and the EBRD is also likely to be interested in support to financial sector (including microcredit) and business promotion. Neither institution may be able to provide regular financial resources until membership can be declared, however, so there may be gaps in some areas in the near term.
- **The IMF.** Kosovo's non-membership prevent a financial role, however, the Fund is providing policy advice and institutional support in particular in fiscal and monetary spheres, as well as advising the UN on development of economic aspects of the civilian administration.
- **Bilaterals.** Many bilateral donors have made contributions to the humanitarian effort, and have indicated support for urgent reconstruction programs. Programs range from small infrastructure rehabilitation in local communities to support for social services and social protection.
- **Non Governmental Organizations (NGOs).** There are more than two hundred international NGOs and relief agencies providing humanitarian aid, focussing on urgently-needed services, goods and supplies at the community level in Kosovo. Many bilateral and multilateral donors are implementing their emergency support programs through these NGOs.

V. The World Bank's Transitional Support Strategy for Kosovo

23. The objective of the proposed TSS is to assist Kosovo's reconstruction and recovery effort over the next 18 months. In addition to responding to the call for international assistance, the Bank's role in Kosovo is an important first step towards future involvement in FRY, once conditions there allow. The timeframe for this strategy corresponds to the period from now through shortly after the end of the year 2000, which would encompass planned mid-2000 elections and the subsequent establishment of a local provisional government. It is expected that a new strategic framework would be needed thereafter, and that its formulation should allow for discussion and development with the new provisional government. The scope of our strategy is also limited, as the special, non-regular financial resources required to support assistance to a non-member are extremely scarce. With this constraint – and in light of the large financing role expected of other donors such as the EC – we believe the Bank can best maximize its impact in Kosovo by using its comparative advantage in policy advice, institution building and aid coordination to help ensure the overall sustainability of the reconstruction and recovery effort. In doing this, we would also seek to build on the lessons learned in other post conflict settings (Box 2). This strategy has been discussed in broad terms with UNMIK and other partners.

Box 2. Lessons of Post-Conflict from Bosnia and Herzegovina and the West Bank and Gaza

- **Local Ownership.** Implementation of reconstruction programs has been most effective in those sectors where priorities of donor assistance have been established jointly with the authorities. Involvement of local stakeholders (including the private sector, local communities, NGOs, etc.) has improved the efficiency and likely future sustainability of donor-funded investments.
- **Donor Coordination.** Donor coordination is essential to avoid the emergence of gaps or duplication in funding, and inconsistency of policy advice, as well as ensuring sustainable budget expenditure planning. The involvement of the authorities in aid coordination is also essential for improving coordination and local ownership of the reconstruction program.
- **Sustainability.** Institutional and policy reform generally been a secondary priority to physical reconstruction. Future efforts should focus on establishing the strong institutions needed in a market economy as well as on critical transition reforms early on in the reconstruction process. Assistance for training in skills needed in a market economy, such as finance and management, are also important in many post-conflict settings. Emergency programs often fail to take into account the need for sufficient funding for recurrent costs, and these needs should be planned for, in particular in the transition from humanitarian relief to reconstruction. Following reconstruction, governments also need to make funding available to ensure the sustainability of newly rebuilt assets. It has been demonstrated that cost recovery is possible even in a postwar setting, reducing the burden on government budgets, and efforts should be undertaken to restart cost recovery as early as feasible.

24. **Modes of Assistance.** Three areas of assistance are proposed under the Transition Support Strategy to enable the Bank to assist in ensuring the sustainability of the overall reconstruction and recovery program (Annex 3 provides specific proposed activities). Administrative budget is expected to be made available to support implementation of this program.

- **Aid Coordination.** In collaboration with the EC we have begun three sets of activities: (i) preparation of damage assessments and development of the Reconstruction and Recovery Program (para. 15) that would identify priority investments and appropriate sectoral policies (this task will be a collaborative effort, involving several donor partners, and will build on work already underway by others in the donor community such as EBRD, WHO, UNICEF and others); (ii) planning, preparing and co-hosting donor conferences to mobilize donor support; and (iii) coordination of financial assistance and its monitoring through establishment of a database and coordination with Kosovo's budget management authorities on expenditure planning and financing.
- **Policy and Technical Advice.** Economic policy advice – to the UN interim government in the first instance and to the local authorities over time – would be a primary area of emphasis. We have developed a coordinated approach to this work with the IMF and others that will ensure complementarity. Development of an economic assessment, now under preparation and to be presented at the October donors' conference, is an important element of support (covering, *inter alia*,

institutions and policies for fiscal management, banking, structural issues in particular related to privatization and private sector development, and social protection). This work also involves advising UNMIK, and eventually, Kosovo's local authorities, as appropriate on the design and implementation of economic institutions and policies, including fiscal, banking, trade and other areas.

- *Limited Financial Support.* Project design and implementation is an area where the Bank can contribute to the reconstruction and recovery effort. However, in light of the constraints on non-regular resources, financial support would need to be provided on a highly selective basis. We would seek to maximize the impact of our own limited resources by leveraging those of other donors through cofinancing arrangements. Among the selectivity criteria would be a proposed activity's contribution toward: (i) facilitating a smooth transition from humanitarian to reconstruction assistance; (ii) building effective, accountable and efficient public institutions; (iii) ensuring efficiency in public sector spending; (iv) restarting economic activity and creating jobs; and (v) furthering sound and appropriate policy environment, in particular in fiscal management, private sector development and social protection.

25. *Financing Sources.* Financial resources that could underpin the Transitional Support Strategy include:

- *Net Income Placed in a Special Trust Fund.* Special allocations of net income, through a trust fund mechanism, have been used to provide non-regular support in cases of non-membership in Bosnia and Herzegovina and the West Bank and Gaza, among others. While Kosovo's situation is unique, this mechanism is consistent with the Bank's guidelines on support to post-conflict regions.
- *Post Conflict Grants from the Development Grant Facility (DGF).* These grants have been successfully used in the Balkan region (Albania and FYROM) in the wake of the current crisis. Their use in Kosovo would be consistent with the guidelines for use of these funds.
- *Donor Trust Funds.* These arrangements, where the Bank could administer the funds of bilateral donors, have also been used successfully in other post-conflict situations, notably the West Bank and Gaza and Bosnia and Herzegovina. Any scenario for mobilizing special grant funds would entail a substantial effort to leverage these funds with additional bilateral donor resources, as has been done in these countries.

26. *The Trust Fund for Kosovo.* Supporting a credible presence in Kosovo's reconstruction and economic recovery effort will require a minimum amount of resources. Our estimate of this minimum is on the order of US\$50-60 million over the next 18 months. On July 29, 1999, the Executive Directors of the Bank recommended to the Board of Governors, as part of the allocation of FY99 net income, that US\$25 million be transferred from surplus to provide emergency rehabilitation assistance for Kosovo. It is proposed that these funds be placed in a Trust Fund for Kosovo (TFK), administered by IDA, that would be provided on a grant basis in support of emergency reconstruction and recovery assistance to Kosovo (Annex 2 provides a draft Resolution establishing the Trust Fund). It is foreseen that a second tranche on the order of US\$25-35 million from FY00 net income would be proposed for use in FY01, subject to the availability of Bank net income. This proposal would be made in the context of a planned Progress Report to the Board after about nine months of implementation of the TSS.

27. *The Operation of the Trust Fund for Kosovo.* Projects would be selected for financing from the TFK according to their consistency with the reconstruction and recovery program and the TSS, in particular the above criteria for Bank financial support. The amount of most grants is expected to be US\$5 million or less. Project preparation would be carried out on an accelerated basis in order to provide near-term reconstruction assistance in this post-conflict setting. Implementation arrangements consistent with Bank guidelines and appropriate to each project would be set out in project appraisal documents. Implementation would normally be carried out through UNMIK; however, it could also be through other

international organizations, including UN agencies. Streamlined procurement and disbursement procedures used in other post-conflict situations would be employed. An Advisory Group will provide guidance on effective use of these procedures to ensure an appropriate balance between speed and agility and the need for adequate controls. This Advisory Group will help ensure the lessons of other emergency and post-conflict situations are taken into account. To ensure appropriate accountability and transparency in the use of funds, projects will be designed consistent with Bank financial management requirements and accounts will be audited according to Bank guidelines. Projects would be closely monitored through supervision including from the field, and progress would be reported periodically to the Executive Directors. In light of the foregoing, it is proposed that approval of the grants rest with the Regional Vice President and project appraisal documents and grant agreements be made available to the Executive Directors for information. Operation of the TFK would be reviewed at the time of the scheduled Progress Report.

28. *Proposed Program of Financial Assistance.* We have identified a preliminary program of (i) urgent activities; and (ii) emergency reconstruction activities for which Bank funding could be provided (Annex 3). Those of an urgent nature could begin immediately, and are deemed critical to the transition from humanitarian to reconstruction assistance. We have sought funding for a portion of these activities through post-conflict fund resources which are designed for this purpose. Emergency reconstruction activities could be initiated shortly and implemented largely in the coming spring construction season. These activities would be funded through the TFK and through proactive mobilization of donor trust fund financing. It is expected that the program would include on the order of six to seven projects per year.

- *Urgent Activities.* Several urgent activities have been identified and prepared for immediate financing, including: (i) support for recurrent costs in the health and education sector, principally for salaries of teachers and medical personnel in the coming months (part of a unified international effort to fund Kosovo's 1999 budget, prepared with the close involvement of the Bank and the IMF and to be implemented by UNMIK); and (ii) support of a small pilot community development fund that would provide grants to communes for priority investments on a locally-determined basis (emphasis would be placed on employment opportunities), to be implemented through an international NGO. Others are being identified and may include support for agriculture, electric power and water, as well as project preparation.
- *Emergency Reconstruction Activities.* In light of the fieldwork currently underway to define reconstruction and recovery priorities there is a need for flexibility in selecting specific reconstruction activities for funding. Among the priority activities, however, are likely to be the following: (i) support for recurrent expenditures for Kosovo's 2000 budget (as in 1999, to be prepared with the guidance and assistance of the Bank and the IMF), funded on a declining basis as domestic tax revenues begin to be collected; (ii) an agriculture restart program that will enable farmers to begin the 2000 spring season with sufficient inputs to produce incomes and reduce food aid dependence; and (iii) a credit line to help support the dynamic small and medium-sized private enterprises that may help lead Kosovo's economic recovery. In addition, we would also expect to support specific reconstruction activities in sectors that may be critical to Kosovo's sustainable economic recovery, and investments and policy reforms that will underpin the needs of an evolving market economy and a sustainable system of social services. Proposed activities in these areas are under preparation, and project proposals will be finalized shortly. (It should be noted that while reconstruction priorities include housing rehabilitation and telecommunications system repairs we believe that there are sufficient donor and other resources likely to be committed to these sectors).

29. *IFC and MIGA.* Since development of an active private sector will be essential for lasting economic growth in Kosovo, and more broadly in the region, early involvement of IFC and MIGA will be

important, despite Kosovo's non-membership status.¹³ Both institutions would capitalize on the regional experience and institutions they have developed.

- *IFC*. The successful establishment of a *micro-lending* facility in the Kosovo region could help support the financing requirements of entrepreneurs and SMEs. Further, such an institution, if successful, could evolve into a financial intermediary through which medium- to long-term project financing could be provided. An IFC team recently completed a preliminary due diligence mission to determine the possibility of establishing a micro-credit bank in Kosovo. IFC will also work with the Bank to support the re-start of the *banking* sector in Kosovo, by trying to attract international, technically proficient partners or by using twinning arrangements. IFC may also provide technical assistance in establishing sound bank financial management practices, implementation of adequate information systems, and development of project/trade finance analysis capabilities. An IFC mission recently completed an assessment of public and private *agro-processing* enterprises in Kosovo, and IFC will assess a possible technical assistance program for Kosovo, building on successful investment experience in the agro-processing sector in Bosnia and Herzegovina. Finally, early engagement on *private sector development* is critical for the overall economic development of the Kosovo region. While development of the private sector is to a large extent contingent upon effective resolution of the ambiguous and contentious property ownership issues, IFC could play a role in providing technical assistance relating to (i) advisory work on the privatization framework; (ii) assessment of the investment climate; (iii) accounting, financial services in productive sectors of the economy, mainly mining and metallurgy, agribusiness, general manufacturing and infrastructure.
- *MIGA* is exploring the feasibility of a trust fund for Kosovo from which it could issue guarantees against the risks of transfer restriction, expropriation, war and civil disturbance and breach of contract. The trust fund would be similar to the ones already in existence in Bosnia and Herzegovina and the West Bank and Gaza.

30. **Field Presence.** In order to carry out the proposed strategy it will be essential to maintain a continuous presence in the field as the reconstruction and recovery effort gets underway. While the constraints of operating in the territory of a non-member prevent the establishment of a fully-fledged Bank resident mission in the near term, we intend to establish a permanent field presence that would allow us to ensure adequate implementation of policy advice and project activities supported by the Bank as well as carry out our aid coordination mandate. Discussions with the UN are underway on the issue of privileges, immunities and exemptions to be enjoyed by this field presence and Bank staff visiting Kosovo.

VI. Risk Management

31. Bank involvement in Kosovo, as in any other post-conflict region, has inherent risks and uncertainties. Other such situations indicate there are risks associated with the fragility of institutions – complicated by the legacy of conflict – that must be taken into account in developing a post-conflict program. Important among them are the uncertain security environment that must be an overriding concern in establishing a field presence; and the potential for misuse of funds for which adequate control measures must be put in place. We have designed our strategy, and will design individual activities, so as to take account of the specific lessons learned in other post-conflict situations so as to minimize these risks. There are also several risks specific to the current situation in Kosovo. Among these risks, and our proposed measures for mitigating them, are:

¹³ Given the non-member status of Kosovo, IFC would require special-purpose grant funds to support micro-finance institutions or industry-specific agency lines of credit (which have been successfully used in neighboring countries).

- *Viable Governance.* The success of the reconstruction and recovery program – and of Kosovo’s future prosperity – rests in large part on the ability of UNMIK to establish itself as a viable and effective transition administration in the near term; and thereafter to ensure hand-over to a provisional local administration. Parallel structures continue to exist in Kosovo; if UNMIK is seen as an outside power, it could prevent Kosovars from engaging and jeopardize reconstruction and recovery. Moreover, mistrust among the ethnic communities adds to the difficulties of effective governance. The extent to which the Kosovo Transition Council and other groups designed to establish and ensure local dialogue and ownership are effective will diminish this risk. Our strategy is designed to help mitigate this risk both by its focus on helping to provide advice and assistance to UNMIK, and by prioritizing activities to develop institutional capacity at the local level.
- *Defining “Substantial Autonomy” in an Operational Setting.* A second risk to the program is the delicate balance that must be struck in ensuring the territorial integrity of FRY on the one hand, and “substantial autonomy” for Kosovo on the other – in particular related to the implications for economic policies and outcomes. The intention to provide substantial autonomy may raise practical implementation and policy issues that take time to resolve. There are several areas – namely trade and customs, tax revenue sharing and infrastructure management to list a few – on which economic efficiency may dictate solutions that could be politically controversial. Through the design of our strategy we have also sought to mitigate this risk by placing a priority on the provision of policy advice in many of these areas.
- *Instability in FRY.* Ongoing developments in FRY will of course have an impact on developments in Kosovo, though these are difficult to mitigate. It is not clear what impact recent popular protests against the current FRY government may have, in particular in light of the vulnerability of many poor facing a winter of shortages. The government of the Republic of Montenegro recently presented to the FRY government a proposal to decentralize which, if not accepted, would be followed by a referendum for independence. Any changes in FRY’s political context over the next several months may directly affect Kosovo, and its reconstruction and recovery efforts. We will monitor these events through our continuing Watch Brief on FRY. We will also continue intensive dialogue with our donor partners in the context of the SEE Region HLSG and its working level counterpart.

VII. Recommendation

32. In light of the foregoing, I recommend that the Executive Directors, having found that use of the Bank’s resources and facilities to assist Kosovo in the manner described in this memorandum would benefit the members, approve the attached Resolution providing for the establishment of a trust fund administered by IDA, in accordance with the procedures set out in para. 27, to finance on a grant basis an emergency reconstruction and recovery program in Kosovo, immediately upon approval by the Board of Governors of the transfer of US\$25 million from IBRD surplus (already earmarked for this purpose).

James D. Wolfensohn
President

by Sven Sandström

September 15, 1999

WORLD BANK ASSISTANCE TO KOSOVO - A Legal Analysis

Legal Memorandum by the Acting Vice President and General Counsel

This memorandum addresses the question of the extent to which the Bank can assist Kosovo within the context of its Articles of Agreement and practice. As Kosovo is a territory within the Federal Republic of Yugoslavia (the FRY), which is not a member of the Bank and is authorized to become a member by the process of succession, it seems appropriate to describe briefly the legal status of Kosovo, and then the arrangements made in 1993 on succession to membership of the republics of the former Socialist Federal Republic of Yugoslavia (the SFRY), before exploring the legal basis of Bank assistance to Kosovo.

1. Legal Status of Kosovo

Before the break-up of the SFRY in the early 1990s, Kosovo was an autonomous province of the Republic of Serbia (Serbia), the largest republic within the SFRY. Under the 1974 Constitution of the SFRY, and the Constitutions of Serbia and Kosovo of the time, Kosovo had enjoyed a significant degree of autonomy. Constitutional amendments and new laws introduced in the late 1980s, before the SFRY broke up, as well as the new Serbian Constitution adopted in 1990, restricted significantly Kosovo's autonomy. Under the new Constitution of the FRY of 1992, the autonomous provinces are not mentioned, with the consequence that any reference to them does no longer appear at the level of the federal constitution but at the level of the republican constitution, i.e. the Serbian Constitution of 1990.

On June 10, 1999, the United Nations Security Council, acting under Chapter VII of the United Nations Charter, adopted Resolution 1244, together with Annex 1 (reproducing the G-8 Foreign Ministers' general principles on a political solution to the Kosovo crisis of May 6, 1999) and Annex 2 (reproducing the peace plan for a resolution of the Kosovo crisis, accepted by the FRY). In the preamble of Resolution 1244, the United Nations member States reaffirmed, on the one hand, their commitment to the "sovereignty and territorial integrity" of the FRY and, on the other hand, their call for "substantial autonomy and meaningful self-administration" for Kosovo. The Resolution established also a temporary system of international civil and security presences, the main responsibilities of which are specified in paragraphs 9 and 11 of the Resolution, respectively. More specifically, under paragraph 10 of the Resolution, the United Nations Security Council authorized the Secretary-General, "with the assistance of relevant international organizations", to establish an international civil presence that would provide an interim administration allowing the Kosovar population to enjoy "substantial autonomy within the Federal Republic of Yugoslavia" and "establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo". Among the main responsibilities of the international civil presence, is support for the "reconstruction of the key infrastructure and other economic reconstruction". Contribution to "economic and social reconstruction" is encouraged, under paragraph 13 of the Resolution, from all United Nations member States as well as international organizations.

Following the adoption of Resolution 1244, the international security presence (known as KFOR) was deployed in Kosovo on June 12, 1999. The international civil presence (known as UNMIK, i.e. United Nations Interim Administration Mission in Kosovo) started its activities under the leadership of a Special Representative *ad interim* and then, since July 2, 1999, a Special Representative of the Secretary-General (SRSR). On July 25, 1999, the SRSR issued his first regulation (Regulation No. 1999/1), Section 1(1) of

which provides that: (i) UNMIK has “all legislative and executive authority with respect to Kosovo”; and (ii) this authority is exercised by the SRSG.

2. Arrangements on Succession to Membership of the SFRY

In December 1992, the IMF Executive Board found that the SFRY (Yugoslavia being an original member of the Bank) had ceased to exist, and succession to membership of the SFRY was opened to all its successor States, provided they met certain conditions set by the IMF. Subsequently, in February 1993, the Bank's Board of Executive Directors determined that the SFRY had ceased to be a member of the Bank.¹⁴ The Board further decided that the SFRY's successor States would be allowed to succeed to SFRY's membership without going through the procedure for new members, upon the satisfaction of certain requirements. These requirements, with respect to the Bank, are that the successor State has: (i) become a member of the IMF; (ii) accepted, in accordance with its laws, the Bank's Articles of Agreement and the terms and conditions of subscription to the shares of the Bank's capital to which it succeeds; (iii) made local currency payments as necessary with respect to the shares to which it succeeds; (iv) entered into a final agreement with the Bank on the loans made to the SFRY, or with the guarantee of the SFRY, which the successor State assumes; and (v) eliminated, or agreed with the Bank on a plan to eliminate, the arrears, if any, in the servicing of the Bank's loans it has assumed. It is under these arrangements that Slovenia, Croatia, the former Yugoslav Republic of Macedonia, and Bosnia and Herzegovina, have succeeded to the membership of the SFRY.¹⁵ FRY's succession depends on the fulfillment of the same requirements.

3. Legal Basis of Bank Assistance to Kosovo

According to the Bank's Articles of Agreement, the primary purpose of the Bank is “to assist in the reconstruction and development of territories of *members*.”¹⁶ The Bank is also required to use its resources and facilities “exclusively for the benefit of *members*.”¹⁷ While it is clear from these provisions that Bank assistance is to be rendered to or for the benefit of its members, we have developed approaches and mechanisms allowing the Bank, in exceptional cases, to assist non-members, while at the same time acting within the Articles' mandate.

Bank assistance to non-member countries, or territories with a special status, has been provided to the then Soviet Union, West Bank and Gaza, and Bosnia and Herzegovina. In all cases, the overriding consideration that ultimately led to the extension of Bank assistance was that the latter was to benefit the Bank's members, and in each case the benefits were identified and explained to the Executive Directors before the assistance was provided. The Executive Directors have the power to interpret the Articles of Agreement (Article IX), and their approval to assist in these situations confirmed that in their view the

¹⁴ See Socialist Federal Republic of Yugoslavia: Cessation of Membership and Succession to Membership (R93-15, IDA/93-22, IFC/R93-19), February 12, 1993, with Amended Resolutions (R93-15/1, IDA/R93-22/1, IFC/R93-19/1), February 25, 1993. See also Effects of the Territorial Disintegration of the Socialist Federal Republic of Yugoslavia (SFRY) (SecM92-1501/Rev.), November 25, 1992.

¹⁵ In the case of IFC and IDA, the requirements are that: (i) the successor State has become a member of the Bank; (ii) the successor State has formally accepted in accordance with its laws, as successor to the SFRY, the Articles of Agreement of the organization in question; and (iii) in the case of IDA only, local currency payments by the successor State have replaced those of the SFRY.

¹⁶ Article I (i) of the Bank's Articles of Agreement. (Emphasis added.) Article I of IDA's Articles of Agreement contains a similar provision.

¹⁷ Article III, Section 1 (a) of the Bank's Articles of Agreement. (Emphasis added.) Compare the similar provision in Article V, Section 1 (a) of IDA's Articles of Agreement, which reads as follows: “The Association shall provide financing to further development in the less-developed areas of the world included within the Association's membership.”

assistance to be provided was of benefit to the Bank and its members. The approval by the Executive Directors of assistance to Kosovo within this framework would be required for any type of assistance, whether it is of a financial nature or is of a technical character or simply involves the administration of funds of others as trustee.

Financial assistance to non-member countries, or territories with a special status, has been provided through trust fund arrangements, e.g. trust funds provided by bilateral or multilateral and other donors and administered by the Bank as a trustee, or trust funds financed from the Bank's own resources, such as from net income/surplus, and administered by the Bank itself or IDA. The actual agreements providing for the assistance after establishment of the trust fund were entered into with the prospective member country,¹⁸ or, in the case of territories with a special status, with bodies designated by the territories' local authorities.¹⁹

The identification, from a legal point of view, of the appropriate counter-parties to agreements with the Bank or IDA is currently being examined with the United Nations Legal Counsel, with whom we are also discussing, in consultation with the legal departments of IFC and MIGA, the most appropriate way of ensuring that the officers and employees of all World Bank Group organizations operating in Kosovo enjoy the necessary privileges, immunities and exemptions. Given our common interest in these issues, we are also in contact with the legal departments of IMF and EBRD.

¹⁸ Thus, for example, the Resolution establishing the technical assistance trust fund for the Soviet Union referred to agreements the Bank would enter into with the USSR to provide for the general terms and conditions for technical assistance.

¹⁹ Thus, the administrator of the trust fund for Gaza was to enter into agreements with the Palestinian Economic Council for Development and Reconstruction, the agency designated by the Palestinian Authority as the appropriate agency.

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

INTERNATIONAL DEVELOPMENT ASSOCIATION

(DRAFT)

RESOLUTION No. 99 - __

RESOLUTION No. IDA 99 - __

TRUST FUND FOR KOSOVO

WHEREAS:

(A) it is desirable to promote the purposes of the Bank and the Association by establishing a Trust Fund for Kosovo (TFK), administered by the Association, in order to finance an emergency reconstruction and recovery program in Kosovo;

(B) the Executive Directors of the Bank have proposed to the Board of Governors of the Bank to adopt a resolution authorizing the transfer from surplus, by way of grant, of \$25 million to the TFK; and

(C) the Association is prepared to establish the TFK, to be trustee thereof and administer it on the terms and conditions set forth in this Resolution;

NOW THEREFORE it is hereby resolved that, subject to the adoption by the Board of Governors of the Bank of the proposed resolution referred to in paragraph B of the Preamble:

1. The TFK is hereby established as a trust fund of the Association, constituted of the funds which shall from time to time be contributed in accordance with the provisions of this Resolution, and any other assets and receipts of the TFK.

2. The Association shall hold and administer such funds, assets and receipts in trust (in such capacity, the Trustee) for the benefit of the member countries of the Association by providing emergency reconstruction and recovery assistance for Kosovo consistent with the Association's purposes; the Trustee shall manage and use such funds, assets and receipts only for the purpose of, and in accordance with, the applicable provisions of the Articles of Agreement of the Association and the provisions of this Resolution, keeping them separate and apart from all other accounts and assets of the Association. The Trustee shall exercise the same care in the discharge of its functions under this Resolution as it exercises with respect to its own affairs and shall have no further liability in respect thereof. The privileges and immunities accorded to the Trustee shall apply to the property, assets, archives, income, operations and transactions of the TFK.

3. All amounts credited by the Bank to the TFK shall be used exclusively by the Trustee for the purpose of financing emergency reconstruction and recovery assistance in Kosovo in the form of grants.
4. The Association shall enter into agreements with appropriate public and private entities to be identified as the recipients of grants, pursuant to such terms and conditions as may be provided pursuant to this Resolution.
5. The Trustee shall establish and maintain appropriate records and accounts to identify the resources of the TFK, the commitments and the reimbursement of expenditures to be financed out of the TFK, and the receipts and disbursements of funds in the TFK.
6. Pending the disbursement of financing from the TFK, the Trustee may invest funds held in the TFK in accordance with the investment authority of the Association. The income from such investments shall be credited to the TFK.
7. (a) The Trustee shall, as soon as practicable after the end of each fiscal year of the Association, furnish to the Executive Directors of the Association: (i) a report on projects financed from the TFK; and (ii) a management assertion together with an attestation from the Trustee's external auditors on the satisfactory performance of the procedures and controls used by the Trustee in administering trust funds. The costs of such attestations shall be borne by the Trustee.

(b) If all funds in the TFK have not been fully committed within two years from the effective date of this resolution, any remaining assets of the TFK shall, unless the Trustee decided otherwise by decision of its Executive Directors, be transferred to the Association.

(c) After all commitments from the TFK shall have been fully disbursed, the Trustee shall as soon as practicable furnish to the Bank, a report on the operations financed from the TFK.
8. The Trustee is authorized to enter into arrangements, on such terms as shall be determined by the Trustee, with members of the Bank in order to cofinance assistance activities on a parallel basis with the TFK.
9. The functions of the Association as Trustee of the TFK shall terminate, except for action necessary for winding up the activities of the TFK, in an expeditious and orderly manner, as the Executive Directors of the Association may decide. On the termination of the TFK pursuant to this paragraph, any surplus assets of the TFK shall be forthwith transferred to the Association.

Matrix of Indicative Bank Activities in Kosovo for FY00

| | Urgent Activities | Emergency Reconstruction |
|---|--|---|
| Institution Building | <ul style="list-style-type: none"> • 1999 Budget Support Operation (PCF) • Policy advice & technical assistance • Aid coordination activities | <ul style="list-style-type: none"> • 2000 Budget Support Operation (TFK) • Policy advice & technical assistance • Aid coordination activities |
| Community/Network Infrastructure | <ul style="list-style-type: none"> • Kosovo Fund for Community Initiatives Project (PCF) • Aid coordination activities | <ul style="list-style-type: none"> • Emergency Sanitation Rehabilitation Project (TFK) • Emergency Power Reconstruction Project (TFK) • Policy advice & technical assistance • Aid coordination |
| Social Services | <ul style="list-style-type: none"> • 1999 Budget Support Operation (PCF) • Aid coordination activities | <ul style="list-style-type: none"> • 2000 Budget Support Operation (TFL) • Emergency Social Services Rehabilitation Project (TFK) • Policy advice & technical assistance • Aid coordination |
| Economic Restart & Private Sector Development | <ul style="list-style-type: none"> • Policy advice & technical assistance • Aid coordination activities | <ul style="list-style-type: none"> • Emergency Agriculture Restart Project (TFK) • Emergency SME Credit Line Project (TFK) • Possible IFC activities • Possible MIGA activities • Policy advice & technical assistance • Aid coordination |

NOTES:

PCF = Post Conflict Facility
TFK = Trust Fund for Kosovo

This matrix provides an indicative and not a comprehensive set of activities. It is expected that additional activities will be identified, and those shown may be subject to change as better information on needs and the programs of other donors becomes available. The proposed 1999 and 2000 Budget Support Operations are shown under both "institutional development" and "social services," as these two operations will address both objectives. Trust fund resources from bilateral donors as cofinancing will be sought for all operations.