

No. 10859

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**INTERNATIONAL DEVELOPMENT ASSOCIATION  
and  
GAMBIA**

**Development Credit Agreement—*Bathurst Port Project* (with  
annexed General Conditions Applicable to Development  
Credit Agreements). Signed at Washington on 26 May  
1970**

*Authentic text: English.*

*Registered by the International Development Association on 2 December 1970.*

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**ASSOCIATION INTERNATIONALE  
DE DÉVELOPPEMENT  
et  
GAMBIE**

**Contrat de crédit de développement — *Projet relatif au port de  
Bathurst* (avec, en annexe, les Conditions générales ap-  
plicables aux contrats de crédit de développement).  
Signé à Washington le 26 mai 1970**

*Texte authentique : anglais.*

*Enregistré par l'Association internationale de développement le 2 décembre 1970.*

## DEVELOPMENT CREDIT AGREEMENT<sup>1</sup>

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AGREEMENT, dated May 26, 1970, between THE GAMBIA (hereinafter called the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (hereinafter called the Association).

### *Article I*

#### GENERAL CONDITIONS; DEFINITIONS

*Section 1.01.* The parties to this Development Credit Agreement accept all the provisions of the General Conditions Applicable to Development Credit Agreements of the Association dated January 31, 1969,<sup>2</sup> with the same force and effect as if they were fully set forth herein (said General Conditions Applicable to Development Credit Agreements of the Association being hereinafter called the General Conditions).

*Section 1.02.* Wherever used in this Development Credit Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the term "Bathurst Port Authority" means the port authority referred to in Section 4.02 of this Development Credit Agreement.

### *Article II*

#### THE CREDIT

*Section 2.01.* The Association agrees to lend to the Borrower, on the terms and conditions in this Development Credit Agreement set forth or referred to, an amount in various currencies equivalent to two million one hundred thousand dollars (\$2,100,000).

*Section 2.02. (a)* The Association shall open a Credit Account on its books in the name of the Borrower and shall credit to such Account the amount of the Credit.

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<sup>1</sup> Came into force on 26 August 1970, upon notification by the Association to the Government of Gambia.

<sup>2</sup> See p. 194 of this volume.

(b) The amount of the Credit may be withdrawn from the Credit Account as provided in, and subject to the rights of cancellation and suspension set forth in, this Development Credit Agreement and in accordance with the allocation of the proceeds of the Credit set forth in Schedule 1 to this Development Credit Agreement, as such allocation shall be modified from time to time pursuant to the provisions of such Schedule or by further agreement between the Borrower and the Association.

*Section 2.03.* The Borrower shall be entitled to withdraw from the Credit Account in respect of the reasonable cost of goods or services required for the Project and to be financed under this Development Credit Agreement:

- (i) such amounts as shall have been paid (or, if the Association shall so agree, shall be required to meet payments to be made) for goods or services included in Categories II, III, IV and V of the allocation of the proceeds of the Credit referred to in Section 2.02 of this Development Credit Agreement; and
- (ii) the equivalent of eighty-three per cent (83%) of such amounts as shall have been paid (or, if the Association shall so agree, shall be required to meet payments to be made) for goods or services included in Category I of the allocation of the proceeds of the Credit referred to in Section 2.02 of this Development Credit Agreement;

provided, however, that if there shall be an increase in the estimate of such payments for goods or services included in Category I, the Association may by notice to the Borrower adjust the stated percentage applicable to such Category as required in order that withdrawals of the amount of the Credit then allocated to such Category and not withdrawn may continue *pro rata* with the payments remaining to be made for goods or services included in such Category.

*Section 2.04.* No withdrawals from the Credit Account shall be made under Categories II, III, IV and V of the allocation of the proceeds of the Credit referred to in Section 2.02 of this Development Credit Agreement on account of payments in the currency of the Borrower, or for goods produced in, or services supplied from, the territories of the Borrower.

*Section 2.05.* The currency of the United Kingdom of Great Britain and Northern Ireland is hereby specified for the purposes of Section 4.02 of the General Conditions.

*Section 2.06.* The Borrower shall pay to the Association a service charge at the rate of three-fourths of one per cent ( $\frac{3}{4}$  of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

*Section 2.07.* Service charges shall be payable semi-annually on February 1 and August 1 in each year.

*Section 2.08.* The Borrower shall repay the principal amount of the Credit withdrawn from the Credit Account in semi-annual installments payable on each February 1 and August 1 commencing August 1, 1980, and ending February 1, 2020, each installment to and including the installment payable on February 1, 1990, to be one-half of one per cent ( $\frac{1}{2}$  of 1%) of such principal amount, and each installment thereafter to be one and one-half per cent ( $1\frac{1}{2}$ %) of such principal amount.

### Article III

#### USE OF PROCEEDS OF THE CREDIT

*Section 3.01.* The Borrower shall apply the proceeds of the Credit in accordance with the provisions of this Development Credit Agreement to expenditures on the Project, described in Schedule 2 to this Development Credit Agreement.

*Section 3.02.* Except as the Association shall otherwise agree, the goods and services (other than consultants' and advisory services) to be financed out of the proceeds of the Credit shall be procured on the basis of international competitive bidding in accordance with the *Guidelines for Procurement under World Bank Loans and IDA Credits*, published by the Bank in August 1969, and in accordance with such other procedures supplementary thereto as are set forth in Schedule 3 to this Development Credit Agreement or as shall be agreed between the Borrower and the Association.

*Section 3.03.* Except as the Association shall otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Credit to be used exclusively in carrying out the Project.

### Article IV

#### PARTICULAR COVENANTS

*Section 4.01. (a)* The Borrower shall carry out or cause the Bathurst Port Authority to carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial and engineering practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the purpose.

*(b)* In the carrying out of the Project, the Borrower shall employ to an extent and upon terms and conditions satisfactory to the Association (i) engineering consultants, acceptable to the Association; and (ii) not later than

January 1, 1971, a port operations advisor and a port accounting advisor acceptable to the Association.

*Section 4.02. (a)* The Borrower shall establish, not later than July 1, 1972, or such other date as shall be agreed between the Borrower and the Association, a port authority to be responsible for the operation, maintenance and development of facilities at the Port of Bathurst, with such powers, responsibilities, management, resources, capital structure and financial policies as are set forth in Schedule 4 to this Development Credit Agreement or as shall be agreed between the Borrower and the Association. The law establishing such port authority and regulations affecting major aspects of its operations promulgated from time to time under such law shall be satisfactory to the Borrower and the Association.

(b) Upon establishment of the Bathurst Port Authority, the Borrower shall cause the Bathurst Port Authority to:

- (i) maintain its corporate existence and its right to carry on its operations;
- (ii) acquire, maintain and renew all rights, powers, privileges and franchises which are necessary or useful in the conduct of its business;
- (iii) operate and maintain, at all times, its facilities and property, and from time to time make all necessary renewals and repairs thereof, all in accordance with sound engineering and business practices;
- (iv) at all times, manage its affairs, plan its future investment and maintain its financial position, all in accordance with sound business and financial principles and practices; and
- (v) be managed, at all times, by qualified, experienced and competent management, under the direction of a chief executive officer to be appointed in consultation with the Association.

(c) Without derogating from its obligations under this Development Credit Agreement, the Borrower shall cause the Bathurst Port Authority to carry out such obligations of the Borrower as shall fall within the responsibilities of the Bathurst Port Authority with due diligence and efficiency and in conformity with sound administrative, financial and engineering practices.

*Section 4.03.* Unless the Association shall otherwise agree, the Borrower shall (i) establish, upon terms and conditions satisfactory to the Association, a system for the unified control of all on-shore cargo operations at the Port of Bathurst, to become effective not later than July 1, 1971; (ii) cause such system to be operated by experienced cargo handling specialists under a license from the Borrower between July 1, 1971 and June 30, 1972 and under a license from the Bathurst Port Authority between July 1, 1972 and June 30,

1973; and (iii) cause such system to be operated under the full and exclusive responsibility of the Bathurst Port Authority beginning July 1, 1973.

*Section 4.04. (a)* Except as the Association shall otherwise agree, the Borrower shall from time to time take, or shall enable or cause the Bathurst Port Authority to take, as the case may be, all such measures satisfactory to the Association (including, but without limitation, adjustments of rates for services at the Port of Bathurst, based on the cost of such services), as shall be required to enable the Borrower or the Bathurst Port Authority, as the case may be:

- (i) to earn an annual rate of return of not less than six per cent (6%) during the fiscal year 1976-1977 and of not less than eight per cent (8%) during the fiscal year 1978-1979 and thereafter on the net fixed assets in operation of the Borrower relating to services at the Port of Bathurst, or of the Bathurst Port Authority, as the case may be; and
- (ii) to maintain at all times funds, accruing from the operation of the assets of the Borrower relating to services at the Port of Bathurst or internally generated by the Bathurst Port Authority, as the case may be, sufficient to meet amortization of debt and interest thereon, to provide adequate working capital, to establish and maintain reserves adequate to meet contingencies and to finance a reasonable proportion of the cost of capital expenditures, including replacement of assets.

(b) In order to assist in achieving the financial objectives set forth in paragraph (a) of this Section, the Borrower shall increase such rates for services by at least ten per cent (10%) not later than October 1, 1971 and, upon completion of the Project, review or cause the Bathurst Port Authority to review such rates for services together with the Association.

(c) For the purposes of this Section, the rate of return shall be calculated in respect of each fiscal year by relating the Borrower's, or the Bathurst Port Authority's, as the case may be, net operating income from services at the Port of Bathurst for that year to the average of the value of the net fixed assets in operation of the Borrower relating to services at the Port of Bathurst, or of the Bathurst Port Authority, as the case may be, at the beginning and at the end of such year.

(d) As used in this Section, (i) "net operating income" means port services income from all sources, less all operating and administrative expenses, adequate maintenance and depreciation and any taxes and levies, if any, or any payments in lieu thereof, but excluding interest and other charges on debt; and (ii) "the value of net fixed assets in operation" means the gross value of the total fixed assets in operation, valued in accordance with sound and consistently maintained methods of valuation or revaluation satisfactory

to the Association, less accumulated depreciation.

*Section 4.05.* The Borrower (i) shall allocate a water area of about one hundred acres lying west of the dockyard and south of Bund Road and a land area of about twelve acres lying west of the oil storage installations, for future expansion of facilities of the Port of Bathurst or for activities related therewith and (ii) except as the Association shall otherwise agree, shall not use, nor permit any of its agencies to use, such area in any such way as may be inconsistent with such expansion.

*Section 4.06.* The Borrower shall furnish to the Association, for its approval, promptly upon their preparation, the plans, specifications, contracts and schedules for the construction work included in the Project.

*Section 4.07.* The Borrower shall maintain or cause to be maintained records adequate to identify the goods and services financed out of the proceeds of the Credit, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the operations, administration and financial condition, in respect of the Project, of the ministries, departments or agencies of the Borrower responsible for the carrying out of the Project or any part thereof or for the maintenance of all works, facilities and equipment related thereto, including the Bathurst Port Authority; and shall enable the Association's representatives to inspect the Project, the goods financed out of the proceeds of the Credit and any relevant records and documents.

*Section 4.08. (a)* The Borrower shall furnish or cause to be furnished to the Association all such information as the Association shall reasonably request concerning the expenditure of the proceeds of the Credit, the Project, the goods and services financed out of the proceeds of the Credit, and the operation, administration and financial condition, in respect of the Project, of the ministries, departments or agencies of the Borrower responsible for the carrying out of the Project or any part thereof or for the maintenance of all works, facilities and equipment related thereto, including the Bathurst Port Authority, and any other matters relating to the purposes of the Credit, the maintenance of the service thereof and the general status of the Credit. On the part of the Borrower, such information shall include information with respect to financial and economic conditions in the territories of the Borrower and the international balance of payments position of the Borrower.

*(b)* The Borrower and the Association shall cooperate fully with each other to assure that the purposes of the Credit will be accomplished. To that end, the Borrower and the Association shall from time to time at the request of either party exchange views through their representatives with regard to

the performance by the Borrower of its obligations under this Development Credit Agreement, the operation, administration and financial condition, in respect of the Project, of the ministries, departments or agencies of the Borrower responsible for the carrying out of the Project or any part thereof or for the maintenance of all works, facilities and equipment related thereto, including the Bathurst Port Authority, and other matters relating to the purposes of the Credit.

(c) The Borrower shall promptly inform the Association of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Credit or the maintenance of the service thereof or the performance by the Borrower of its obligations under this Development Credit Agreement.

(d) The Borrower shall afford all reasonable opportunity for accredited representatives of the Association to visit any part of the territories of the Borrower for purposes related to the Credit.

*Section 4.09.* The Borrower undertakes to insure or cause to be insured, or make other provision satisfactory to the Association for the insurance of, the imported goods to be financed out of the proceeds of the Credit against marine, transit and other hazards incident to acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower to replace or repair such goods.

*Section 4.10.* The principal of, and service charges on, the Credit shall be paid without deduction for, and free from, any taxes, and free from all restrictions, imposed under the laws of the Borrower or laws in effect in its territories.

*Section 4.11.* This Development Credit Agreement shall be free from any taxes that shall be imposed under the laws of the Borrower or laws in effect in its territories on or in connection with the execution, delivery or registration thereof.

#### *Article V*

##### REMEDIES OF THE ASSOCIATION

*Section 5.01.* If any event specified in Section 7.01 of the General Conditions or in Section 5.02 of this Development Credit Agreement shall occur and shall continue for the period, if any, therein set forth, then at any subsequent time during the continuance thereof, the Association, at its option, may by notice to the Borrower declare the principal of the Credit then outstanding to be due and payable immediately together with the service charges thereon and upon any such declaration such principal, together with such charges, shall become due and payable immediately, anything in this Development Credit Agreement to the contrary notwithstanding.



*Section 5.02.* For the purposes of Section 7.01 of the General Conditions, the following additional events are specified, namely:

the events specified in Section 5.03 of this Development Credit Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given to the Borrower by the Association.

*Section 5.03.* For the purposes of Section 6.02 of the General Conditions, the following additional events are specified:

- (a) The Bathurst Port Authority shall have failed to perform any obligation of the Borrower under this Development Credit Agreement as shall fall within the responsibilities of the Bathurst Port Authority.
- (b) The Borrower or any other authority having jurisdiction shall have taken action for the dissolution or disestablishment of the Bathurst Port Authority or for the suspension of its operations.
- (c) Any change in the nature or constitution of the Bathurst Port Authority shall have occurred as shall make it improbable that the Bathurst Port Authority will be able to carry out the Project or its operations or to perform its obligations under Section 4.02 (c) of this Development Credit Agreement.

#### *Article VI*

##### EFFECTIVE DATE; TERMINATION

*Section 6.01.* The date of August 26, 1970 is hereby specified for the purposes of Section 10.04 of the General Conditions.

*Section 6.02.* The obligations of the Borrower and of the Bathurst Port Authority under Section 4.02 (b) and (c), 4.03 (iii), 4.04 and 4.05 of this Development Credit Agreement shall terminate on the date on which this Development Credit Agreement shall terminate or on May 26, 1995, whichever shall be the earlier.

#### *Article VII*

##### MISCELLANEOUS

*Section 7.01.* The Closing Date shall be January 31, 1974, or such other date as shall be agreed between the Borrower and the Association.

*Section 7.02.* The Minister of Finance, Trade and Development of the Borrower is designated as representative of the Borrower for the purposes of Section 9.03 of the General Conditions.

*Section 7.03.* The following addresses are specified for the purposes of Section 9.01 of the General Conditions:

For the Borrower:

Minister of Finance, Trade and Development  
The Quadrangle  
Bathurst  
The Gambia

Alternative address for cables:

Minfin  
Bathurst  
The Gambia

For the Association:

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

Alternative address for cables:

Indevas  
Washington, D.C.

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

The Gambia:

*By* S. M. DIBBA  
Authorized Representative

International Development Association :

*By* J. BURKE KNAPP  
Vice President

SCHEDULE 1  
ALLOCATION OF PROCEEDS OF CREDIT

<i>Category</i>	<i>Amounts Expressed in Dollar Equivalent</i>
I. Civil Works .....	1,107,200
II. Dredger, cargo handling equipment, marine survey equipment and navigational aids .....	541,000
III. Advisory Services .....	62,400
IV. Training of Personnel .....	14,400
V. Engineering Services .....	127,000
VI. Unallocated .....	248,000
<b>TOTAL</b>	<b>2,100,000</b>

REALLOCATION UPON CHANGE IN COST ESTIMATES

1. If the estimate of the cost of the items included in any of the Categories I to V shall decrease, the amount of the Credit then allocated to, and no longer required for, such Category will be reallocated by the Association to Category VI.

2. If the estimate of the cost of the items included in any of the Categories I to V shall increase, an amount equal to the portion, if any, of such increase to be financed out of the proceeds of the Credit (or, in the case of Category I, an amount equal to 83% of such increase) will be allocated by the Association, at the request of the Borrower, to such Category from Category VI, subject, however, to the requirements for contingencies, as determined by the Association, in respect of the cost of the items in the other Categories.

SCHEDULE 2  
DESCRIPTION OF THE PROJECT

The Project consists of the expansion and improvement of facilities and services at the Port of Bathurst and includes:

1. Construction of a deep-water (about 30 feet deep) wharf about 400 feet long, for general cargo ships and petroleum tankers.
2. Construction of two transit sheds with a total aggregate covered area of about 54,000 square feet at the wharf described in Part I above.
3. Rehabilitation of Government Wharf and construction of two mooring dolphins nearby.
4. Removal of the B.O.A.C. jetty and construction of a jetty for shallow-draft vessels.
5. Reclamation by dredging of about twenty acres for shore facilities.
6. Construction of office and miscellaneous buildings.
7. Construction of necessary roads, parking, sorting and open storage areas.

8. Acquisition of a small suction-cutter dredger, cargo handling equipment, marine survey equipment and navigational aids.
9. Establishment of personnel training programs and training of engineering and accounting staff, including commercial accounting training for two accountants.

The Project is expected to be completed by mid 1973.

### SCHEDULE 3 PROCUREMENT

A. Unless the Association shall otherwise agree, the procedure outlined below shall be followed for all civil works contracts amounting to \$25,000 equivalent or more and all contracts for the supply of goods amounting to \$10,000 equivalent or more:

1. Unless the Association shall otherwise agree, all civil works included in the Project shall be included in a single contract. Prequalification, as described in paragraph 1.3 of the Guidelines, shall be employed for civil works bidders. A period of 45 days shall be allowed for submission of prequalification documents. Prior to prequalification, the Borrower shall send to the Association a list of all firms requesting prequalification, together with the proposed list of prequalified contractors and the reasons for approval or rejection.
2. Prior to issuing and publishing invitations to bid, the Borrower shall send to the Association for approval two copies of the invitation to bid, draft forms of contract, specifications and all other bid documents together with a complete description of the international advertising procedure to be used (including a list of publications in which the advertisements will appear and the time to be allowed for bid preparation). Bidders shall be allowed at least 90 days to submit their bids and shall not be required to be registered in The Gambia as a condition to submit bids. Should any other formality be required of a successful bidder before undertaking the works, every facility shall be furnished to the contractor to avoid any possible delay.
3. Contracts shall include adequate escalation clauses, as described in paragraph 4.4 of the Guidelines, and shall show unit prices. Bidding documents shall specify that materials and equipment required to carry out the Project shall be exempt from all taxes and duties on import or re-export, provided such equipment is re-exported after completion of the works. The Borrower shall ensure that import permits for materials or equipment, as may be required, shall be issued promptly.
4. After bids have been received and analyzed, two copies of the analysis of bids, the recommendations of the consulting engineers and the proposals of the Borrower for award, together with the reason for such proposals, shall be submitted to the Association for its review and comment prior to the award of the contract or issuance of a letter of intent. Unless the Association shall otherwise agree, contracts shall be awarded to the lowest evaluated bidder. If it is proposed to award any contract to other than the lowest evaluated bidder, the reasons for such proposal shall be stated.

5. If the proposed final contracts were to differ from the terms and conditions contained in the respective documents approved by the Association under (2) and (4) above, two copies of the text of the proposed changes shall be submitted to the Association for its review and comment prior to the execution of the contract.
6. After award of the contract, two copies of the final contract shall be transmitted to the Association.

B. With respect to civil works contracts amounting to less than \$25,000 equivalent and contracts for the supply of goods amounting to less than \$10,000 equivalent, copies of all documents, including the invitation to bid, the tender documents, the bid analysis and evaluation, and the reasons for the award, if any, to other than the lowest evaluated bidder shall be sent to the Association promptly after the execution of any such contract and prior to the submission to the Association of the first application for withdrawal from the Credit Account in respect of such contract.

#### SCHEDULE 4

##### THE BATHURST PORT AUTHORITY

###### I. *Functions and Responsibilities*

The Bathurst Port Authority shall *inter alia* have the following functions and responsibilities:

1. Provision of berthing, cargo handling and storage and other port services.
2. Control of ship movements, pilotage and tug services.
3. Control of communications systems and navigational aids.
4. Construction and maintenance of port facilities, including dredging.
5. Control of interrelated services; provided, however, that, prior to the creation of the Bathurst Port Authority, the Borrower shall decide, in agreement with the Association, whether (a) the dockyards shall be (i) owned by the Borrower and operated by the Bathurst Port Authority as agent for the Borrower or (ii) owned and operated by the Bathurst Port Authority; and (b) cross-river ferry services shall be operated by the Bathurst Port Authority.

###### II. *Powers*

In order to carry out its functions and responsibilities, the Bathurst Port Authority shall *inter alia* have power to:

1. Approve its annual operating and capital budgets.
2. Subject to the approval of the Borrower in such cases as shall be prescribed in the laws and regulations of the Borrower governing the operations of the Bathurst Port Authority:
  - (a) establish and collect such rates for the services it provides, as shall enable it to perform the obligations of the Borrower under Section 4.04 of this Development Credit Agreement; and

- (b) borrow money domestically and abroad, with or without the Borrower's guarantee.
3. Open and operate bank accounts.
  4. Take out and maintain insurance covering such risks and in such amounts as shall be in accordance with sound commercial practice.

### III. *Finances*

1. As of the start of operations of the Bathurst Port Authority, the Borrower's capital contribution therein shall be composed of:

- (a) such assets of the Marine Department of the Ministry of Works and Communications of the Borrower relating to the Port of Bathurst as shall (i) have been included in an inventory, to be prepared by the said Marine Department prior to the start of execution of the Project, (ii) have been valued at estimated replacement value less accumulated depreciation, and (iii) be in existence as of the start of operations of the Bathurst Port Authority; plus
- (b) all contributions of the Borrower towards the cost of the Project, less any amount of the Credit disbursed or reimbursed by the Association to the Borrower.

2. As of the start of its operations, the Bathurst Port Authority shall assume a debt towards the Borrower, in an amount equal to the amount of the Credit disbursed or reimbursed by the Association to the Borrower as of that date. The total aggregate amount of such debt shall be equal to the total aggregate amount of the Credit disbursed or reimbursed by the Association to the Borrower.

3. The debt described in the preceding paragraph shall bear interest at the rate of seven per cent (7%) per annum on the outstanding balance thereof and shall be repaid by the Bathurst Port Authority in forty (40) semi-annual installments payable on each January 1 and July 1, commencing on July 1, 1974 and ending on January 1, 1994.

INTERNATIONAL DEVELOPMENT ASSOCIATION  
GENERAL CONDITIONS, DATED 31 JANUARY 1969  
GENERAL CONDITIONS APPLICABLE TO DEVELOPMENT CREDIT AGREEMENTS  
[*Not published herein. See United Nations, Treaty Series, vol. 703, p. 244.*]

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