

No. 12012

**INTERNATIONAL DEVELOPMENT ASSOCIATION
and
ZAIRE**

**Development Credit Agreement—*Second Highway Project*
(with schedules and General Conditions Applicable to
Development Credit Agreements). Signed at Washing-
ton on 23 March 1972**

Authentic text: English.

*Registered by the International Development Association on 26 September
1972.*

**ASSOCIATION INTERNATIONALE
DE DÉVELOPPEMENT
et
ZAÏRE**

**Contrat de crédit de développement — *Deuxième projet re-
latif au réseau routier* (avec annexes et Conditions
générales applicables aux contrats de crédit de
développement). Signé à Washington le 23 mars 1972**

Texte authentique : anglais.

*Enregistré par l'Association internationale de développement le 26 sep-
tembre 1972.*

DEVELOPMENT CREDIT AGREEMENT¹

AGREEMENT, dated March 23, 1972 between the REPUBLIC OF ZAIRE (hereinafter called the Borrower) and the INTERNATIONAL DEVELOPMENT ASSOCIATION (hereinafter called the Association.)

WHEREAS pursuant to an agreement dated June 9, 1969² between the Borrower (then the Democratic Republic of the Congo) and the Association, the Association granted a development credit to the Borrower to assist in the financing of a program of technical assistance in highway administration and of highway maintenance and rehabilitation;

WHEREAS pursuant to a Plan of Operation dated May 1, 1969 among the Borrower, the United Nations Development Programme (hereinafter called the UNDP) and the International Bank for Reconstruction and Development (the Bank), the UNDP also assisted in the financing of such program;

WHEREAS pursuant to an agreement dated June 21, 1971 the Borrower obtained a loan from the United States of America to assist the Borrower in the transport sector, and the Borrower has in addition requested further assistance from the UNDP, Canada, acting through the Canadian International Development Association, the French Republic, acting through its Fonds d'Aide et de Coopération, and the Association, for a highway project; and

WHEREAS the Association has agreed to provide such assistance and has agreed to act as Executing Agency for the UNDP in respect of any grant to the Borrower for such project;

NOW THEREFORE, the parties hereto hereby agree as follows:

Article I

GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Development Credit Agreements of the Association, dated January 31, 1969³ with the same force and effect as if they were fully set forth herein, subject, however, to the deletion of

¹ Came into force on 11 September 1972, upon notification by the Association to the Government of Zaire.

² United Nations, *Treaty Series*, vol. 737, p. 191.

³ See p. 88 of this volume.

Sections 5.01 and 6.02 (h) thereof and to the renumbering of Section 6.02 (i) into 6.02 (h) thereof (said General Conditions Applicable to Development Credit Agreements of the Association, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Ministry" means the Ministry responsible for Public Works of the Borrower; and

(b) "Bureau" means the *Office des Routes* established under *Ordonnance-Loi* No. 71-023 of the Borrower dated March 26, 1971 as amended by *Ordonnance-Loi* No. 72-016 dated February 21, 1972.

Article II

THE CREDIT

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions in the Development Credit Agreement set forth or referred to, an amount in various currencies equivalent to nineteen million dollars (\$19,000,000).

Section 2.02. The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule shall be amended from time to time, for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project, described in Schedule 2 to this Agreement, and to be financed under the Development Credit Agreement; provided, however, that, except as the Association shall otherwise agree, no withdrawal shall be made on account of expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in, or services supplied from, such territories.

Section 2.03. Except as the Association shall otherwise agree, the goods and services required for the Project (other than services of consultants and of other experts) and to be financed out of the proceeds of the Credit shall be procured on the basis of international competition under procedures consistent with the *Guidelines for Procurement under World Bank Loans and IDA Credits*, published by the Bank in August 1969, as revised in May 1971, and in accordance with, and subject, to the provisions set forth in Schedule 3 to this Agreement.

Section 2.04. The Closing Date shall be June 30, 1975 or such later date as shall be agreed to by the Association.

Section 2.05. 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 2.06. Service charges shall be payable semi-annually on June 15 and December 15 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each June 15 and December 15 commencing June 15, 1982, and ending December 15, 2021, each installment to and including the installment payable on December 15, 1991 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.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

Article III

EXECUTION OF THE PROJECT

Section 3.01. (a) The Borrower, through the Bureau, shall 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) Until completion of the Project, the Borrower shall consult with the Association annually on the draft budget for the Bureau, which, until such completion, shall not be less than the equivalent of \$20,000,000 for each year.

Section 3.02. In carrying out the Project, the Borrower shall utilize the services of consultants and other experts acceptable to the Association upon terms and conditions satisfactory to the Association.

Section 3.03. In carrying out the works included in Part D of the Project, the Borrower shall employ contractors acceptable to the Association upon terms and conditions satisfactory to the Association.

Section 3.04. (a) The Borrower undertakes to insure, or make adequate provision for the insurance of, the imported goods to be financed out of the proceeds of the Credit against hazards incident to the 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.

(b) Except as the Association shall otherwise agree, the Borrower shall cause all goods and services required in the carrying out of the Project and financed out of the proceeds of the Credit to be used exclusively for the Project, until its completion.

Section 3.05. (a) The Borrower shall furnish to the Association, promptly upon their preparation, the plans, specifications, contract documents, work and procurement schedules and reports for the Project, and any material modifications thereof or additions thereto, in such detail as the Association shall reasonably request.

(b) The Borrower shall (i) maintain or cause the Bureau to maintain records adequate to record the progress of the Project (including the cost thereof), to identify the goods and services financed out of the proceeds of the Credit and to disclose the use thereof in the Project; (ii) 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; and (iii) furnish to the Association all such information as the Association shall reasonably request concerning the Project, the expenditure of the proceeds of the Credit and the goods and services financed out of such proceeds.

Section 3.06. Until completion of the Project, the Borrower shall consult with the Association prior to any appointment to a senior position in the Bureau, including any assignment thereto of any non-Zairian personnel.

Article IV

OTHER COVENANTS

Section 4.01. The Borrower shall maintain or cause to be maintained records adequate to reflect in accordance with consistently maintained sound accounting practices the operations, resources and expenditures, in respect of the Project, of the Ministry, the Bureau and of any other department or agency of the Borrower responsible for carrying out any part of the Project.

Section 4.02. The Borrower shall ensure that the Bureau be administered at all times by competent and experienced managers and personnel in adequate numbers and with adequate supporting facilities, services and resources.

Section 4.03. The Borrower shall advise the Association of any amendment to or repeal of any provision of the laws referred to in Section 1.02 (b) of this Agreement, in advance where practicable.

Section 4.04. The Borrower shall

- (a) cause the Bureau to submit to the Association by October 31, 1972 for comment a comprehensive program of highway maintenance;
- (b) establish without delay and maintain an organization for the implementation of such program;
- (c) give priority to such maintenance over new construction; and
- (d) provide such facilities as shall be required for the proper care, maintenance and renewal of all equipment used in the implementation of such program and, for the purpose, establish and maintain adequate workshops in appropriate places and provide, promptly as needed, the funds, facilities, staff, services and other resources required.

Section 4.05. The Borrower shall ensure the collection and recording, in accordance with adequate statistical methods and procedures, of such information concerning highway traffic, highway construction and maintenance costs, as shall be reasonably required for the proper planning of maintenance, improvements and extensions of the highway system under the jurisdiction of the Bureau.

Section 4.06. The Borrower shall take such steps as shall be required to ensure that the limits imposed by the laws of the Borrower on the dimensions and axle-loads of vehicles using the highway system are consistent with the structural and geometric design standards of the highways and that such limits are duly observed.

Section 4.07. The Borrower shall cause the Bureau to formulate during 1972 a comprehensive highway investment plan covering the period through 1980, from which the Borrower, in agreement with the Association and any other agency providing financing therefor, shall select the priority roads for the studies and engineering to be carried out under Part C of the Project.

*Article IV*¹

CONSULTATION, INFORMATION AND INSPECTION

Section 5.01. The Borrower and the Association shall cooperate fully to ensure 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:

¹ Should read "Article V".

- (a) exchange views through their representatives with regard to the performance of their respective obligations under the Development Credit Agreement, the administration, operations and financial condition, in respect of the Project, of the Ministry, the Bureau and any other department or agency of the Borrower responsible for carrying out the Project or any part thereof, and other matters relating to the purpose of the Credit; and
- (b) furnish to the other all such information as it shall reasonably request with regard to 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, including its balance of payments, and the external debt of the Borrower, or any of its political subdivisions and of any agency of the Borrower or of any such political subdivision.

Section 5.02. (a) The Borrower shall furnish or cause to be furnished to the Association all such information as the Association shall reasonably request concerning the administration, operations and financial condition, in respect of the Project, of the Ministry, the Bureau and any other department or agency of the Borrower responsible for carrying out the Project or any part thereof.

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

Section 5.03. The Borrower shall afford all reasonable opportunity for accredited representatives of the Association to inspect all plants, installations, sites, works, buildings, property and equipment related to the Project, and any relevant records and documents, and to visit any part of the territories of the Borrower for purposes related to the Credit.

Article VI

TAXES AND RESTRICTIONS

Section 6.01. The principal of, and service charges on, the Credit shall be paid without deduction for, and free from, any taxes imposed under the laws of the Borrower or laws in effect in its territories.

Section 6.02. The Development Credit Agreement shall be free from any taxes on or in connection with the execution, delivery or registration thereof, imposed under the laws of the Borrower or laws in effect in its territories.

Section 6.03. The payment of the principal of, and service charges on, the Credit shall be free from all restrictions, regulations, controls and moratoria of any nature imposed under the laws of the Borrower or laws in effect in its territories.

Article VII

REMEDIES OF THE ASSOCIATION

Section 7.01. If any event specified in Section 7.01 of the General Conditions or in Section 7.03 of this 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 and service charges shall become due and payable immediately, anything to the contrary in the Development Credit Agreement notwithstanding.

Section 7.02. For the purposes of Section 6.02 of the General Conditions, the following additional events are specified:

- (a) the right of the Borrower to utilize any funds provided for the Project by any country or institution mentioned in the preamble to this Agreement shall have been suspended in accordance with the terms of the respective agreement under which such funds were provided; and
- (b) any such country or institution providing such funds in the form of a loan or credit shall have demanded repayment thereof in advance of the agreed maturity thereof pursuant to the terms of the respective agreement under which such funds were provided.

Section 7.03. For the purposes of Section 7.01 of the General Conditions, the following additional event is specified, namely, the event specified in Section 7.02 (b) of this Agreement shall occur.

Article VIII

EFFECTIVE DATE; TERMINATION

Section 8.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 10.01 (b) of the General Conditions:

- (a) administrative regulations satisfactory to the Association governing the organization and operations of the Bureau have been adopted and have entered into full force and effect;
- (b) agreements for assistance in carrying out the Project between the Borrower and the countries and institution mentioned in the preamble of this Agreement have been entered into and have, or will concurrently with this Agreement, become fully effective;
- (c) the Borrower has entered into a contract with a firm of consultants satisfactory to the Association and containing terms and conditions acceptable to the Association for the provision to the Bureau of expert services and training, and such contract has, or will concurrently with this Agreement, become fully effective; and
- (d) the Borrower has made arrangements satisfactory to the Association for the management and operation of the Bureau's National Laboratory.

Section 8.02. The date June 26, 1972 is hereby specified for the purposes of Section 10.04 of the General Conditions.

Section 8.03. The obligations of the Borrower under Article IV of this Agreement shall cease and determine on the date on which the Development Credit Agreement shall terminate or on a date twenty years after the date of this Agreement, whichever shall be the earlier.

Article IX

REPRESENTATIVE OF THE BORROWER; ADDRESSES

Section 9.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 9.03 of the General Conditions.

Section 9.02. The following addresses are specified for the purposes of Section 9.01 of the General Conditions:

For the Borrower:

Ministère des Finances
Boîte Postale No. 10
Kinshasa-Kalina
Republic of Zaire

Cable address:

Minifin
Kinshasa
Telex: 298

For the Association:

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

Cable address:

Indevas
Washington, D.C.
Telex: 440098 (ITT) or 24423 (RCA)

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this 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.

Republic of Zaire:

By ILEKA MBOYO
Authorized Representative

International Development Association:

By J. BURKE KNAPP
Vice President

SCHEDULE 1

WITHDRAWAL OF THE PROCEEDS OF THE CREDIT

1. The table below sets forth the categories of goods and services to be financed out of the proceeds of the Credit, the allocation of amounts of the Credit to each category and the percentage of eligible expenditures so to be financed in each category:

<i>Category</i>	<i>Amount of the Credit Allocated (Expressed in Dollar Equivalent)</i>	<i>% of Expenditures to be Financed</i>
I. Consultant's services for Part A of the Project	3,655,000	62% of foreign expenditures
II. Salary and benefits of Deputy Director General (Technical) of the Bureau	125,000	100% of foreign expenditures

<i>Category</i>	<i>Amount of the Credit Allocated (Expressed in Dollar Equivalent)</i>	<i>% of Expenditures to be Financed</i>
III. Civil works under Part D of the Project	12,100,000	67% of total expenditures
IV. Unallocated	<u>3,120,000</u>	
TOTAL	<u>19,000,000</u>	

2. For the purposes of this Schedule:

(a) The term "foreign expenditures" means expenditures for goods produced in, or services supplied from, the territories, and in the currency, of any country other than that of the Borrower;

(b) The term "total expenditures" means the aggregate of foreign expenditures and of expenditures for goods produced in, or services supplied from, the territories of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

- (a) expenditures prior to the date of this Agreement, except that withdrawals may be made in respect of Category I on account of expenditures incurred before such date but after January 1, 1972 in an aggregate amount not exceeding the equivalent of \$100,000; and
- (b) payments for taxes imposed under the laws of the Borrower or laws in effect in its territories on goods or services, or on the importation, manufacture, procurement or supply thereof. To the extent that the amount represented by the percentage set forth in the third column of the table in paragraph 1 above in respect of any Category would exceed the amount payable net of all such taxes, such percentage shall be reduced to ensure that no proceeds of the Credit will be withdrawn on account of payments for such taxes.

4. Notwithstanding the allocation of an amount of the Credit set forth in the second column of the table in paragraph 1 above:

- (a) if the estimate of the expenditures under any Category shall decrease, the amount of the Credit then allocated to such Category and no longer required therefor will be reallocated by the Association by increasing correspondingly the unallocated amount of the Credit;
- (b) if the estimate of the expenditures under any Category shall increase, the percentage set forth in the third column of the table in paragraph 1 above in respect of such expenditures shall be applied to the amount of such increase, and a corresponding amount will be allocated by the Association, at the request of the Borrower, to such Category from the unallocated amount of the Credit, subject, however, to the requirements for contingencies, as determined by the Association, in respect of any other expenditures; and
- (c) if the Association shall have reasonably determined that the procurement of any item in any Category is inconsistent with the procedures set forth or

referred to in Section 2.03 of this Agreement, no expenditures for such item shall be financed out of the proceeds of the Credit and the Association may, without in any way restricting or limiting any other right, power or remedy of the Association under the Development Credit Agreement, by notice to the Borrower, cancel such amount of the Credit as in the Association's reasonable opinion, represents the amount of such expenditures which would otherwise have been eligible for financing out of the proceeds of the Credit.

5. Notwithstanding the percentage set forth in the third column of the table in paragraph 1 above, if the estimate of total expenditures under Category III shall increase and no proceeds of the Credit are available for reallocation to such Category, the Association may, by notice to the Borrower, adjust the percentage then applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made.

SCHEDULE 2

DESCRIPTION OF THE PROJECT

The Project consists of the following parts:

- A. The utilization of the services of consultants and other experts in the operation of the Bureau and its on-the-job training programs.
- B. 1. Procurement of road-maintenance and other equipment required for the operations of the Bureau and for the implementation of the program referred to in Section 4.04 (a) of this Agreement; and
 - 2. Training of operators and mechanics for such implementation.
- C. Feasibility studies of about 600 km of roads and detailed engineering of about 400 km of roads selected pursuant to Section 4.07 of this Agreement.
- D. Rehabilitation of the following high-priority roads (about 1,900 km):

Boma-Moanda	Mwene-Ditu-Luputa
Kisangani-Banalia-Buta	Likasi-Luilu
Isiro-Wamba	Malansa-Luozi
Luluabourg-Demba	Isiro-Poko
Rwindi-Beni	Dingila-Poko
Isiro-Niangara	Luputa-Pont Luilu
Titule-Dingila	
- E. Strengthening of the National Highway Laboratory by the utilization of technical assistance and the procurement of equipment.

The Project is expected to be completed by December 31, 1974.

SCHEDULE 3

PROCUREMENT

1. With respect to all contracts for civil works, bidders shall be required to prequalify. Invitations to prequalify shall be issued at least 45 days in advance of the date specified therein as the date of prequalification. The Borrower shall, before qualification is invited, inform the Association in detail of the procedure to be followed and shall introduce such modifications in said procedure as the Association shall reasonably request. The list of prequalified bidders, together with a statement of their qualifications and of the reasons for the exclusion of any applicant for prequalification, shall be furnished by the Borrower to the Association for its comments before the applicants are notified, and the Borrower shall make such additions or deletions from the said list as the Association shall reasonably request.

2. Before bids are invited, the Borrower shall furnish to the Association for its comments the text of the invitations to bid and the specifications and other bidding documents, together with a description of the advertising procedures to be followed for the bidding, and shall make such modifications in the said documents or procedures as the Association shall reasonably request. Any further modification to the bidding documents shall require the Association's concurrence before it is issued to the prospective bidders. Invitations to bid shall include the matters set forth in paragraph 6 of this Schedule.

3. After bids have been received and evaluated, the Borrower shall, before a final decision on the award is made, inform the Association of the name of the bidder to which it intends to award the contract and shall furnish to the Association, in sufficient time for its review, a detailed report on the evaluation and comparison of the bids received, together with its recommendations for award and the reasons for the intended award. The Association shall, if it determines that the intended award would be inconsistent with the procedures set forth or referred to in Section 2.03 of this Agreement, promptly inform the Borrower and state the reasons for such determination.

4. The terms and conditions of any contract shall not, without the Association's concurrence, materially differ from those on which bids were invited.

5. Two conformed copies of each contract shall be furnished to the Association promptly after its execution and prior to the submission to the Association of the first application for withdrawal of funds from the Credit Account in respect of such contract.

6. Invitations to bid for contracts for civil works shall include the following terms and conditions:

- (a) that 60 days are allowed for the submission of bids;
- (b) that bids shall be accompanied by a bid bond or bank guarantee of at least 3% of the amount of the bid;

- (c) that the successful bidder will be required to furnish a performance bond in an amount of at least 100% of the contract price or, at the Borrower's option, a bank guarantee of at least 10% of such price, to remain in effect until acceptance of the works; and
- (d) that the contract will provide for monthly retentions of at least 10% of each invoice until the amount thereof totals at least 5% of the contract price, one-half thereof to be released upon completion of the works and the remainder, upon termination of the contractor's responsibility in respect of defects.

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.*]
