

No. 12008

**INTERNATIONAL DEVELOPMENT ASSOCIATION
and
INDONESIA**

Development Credit Agreement—*Development Finance Company Project* (with schedule and General Conditions Applicable to Development Credit Agreements). Signed at Washington on 7 June 1972

Authentic text: English.

Registered by the International Development Association on 26 September 1972.

**ASSOCIATION INTERNATIONALE
DE DÉVELOPPEMENT
et
INDONÉSIE**

Contrat de crédit de développement — *Projet relatif à une société de financement du développement* (avec annexe et Conditions générales applicables aux contrats de crédit de développement). Signé à Washington le 7 juin 1972

Texte authentique : anglais

Enregistré par l'Association internationale de développement le 26 septembre 1972.

DEVELOPMENT CREDIT AGREEMENT¹

AGREEMENT, dated June 7, 1972, between REPUBLIC OF INDONESIA (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, 1969,² with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 1 to this Agreement (said General Conditions Applicable to Development Credit Agreements of the Association, as so modified, being hereinafter called the General Conditions).

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

(a) "BAPINDO" means Bank Pembangunan Indonesia.

(b) "BAPINDO Act" means the *Undang-Undang* No. 21 PRP of 1960, as amended by *Undang-Undang* No. 17 PRP of 1962 and Presidential Decree No. 2 of 1966 and as further amended from time to time.

(c) "Project Agreement" means the Agreement of even date herewith³ between the Association and BAPINDO, as amended from time to time.

¹ Came into force on 10 August 1972, upon notification by the Association to the Government of Indonesia.

² See p. 22 of this volume.

³ The said Agreement entered into force on 10 August 1972. As it does not constitute an international agreement or a part of the present Agreement, it is not reproduced herein. However, it was published by the Association as document CN 310 IND, a certified true copy of which was transmitted to the Secretariat together with the documentation submitted for registration of the present Development Credit Agreement.

(d) "Subsidiary Loan Agreement" means the Loan Agreement to be entered into between the Borrower and BAPINDO pursuant to Section 3.02 (a) of this Agreement.

(e) "Sub-loan" means a loan or credit made or proposed to be made by BAPINDO out of the proceeds of the Credit relent to BAPINDO under the Subsidiary Loan Agreement, to an Investment Enterprise for an Investment Project, and "free-limit sub-loan" means a sub-loan as so defined which qualifies as a free-limit sub-loan pursuant to the provisions of Section 2.03 (b) of this Agreement.

(f) "Investment" means an investment other than a sub-loan made or proposed to be made by BAPINDO out of the proceeds of the Credit relent to BAPINDO under the Subsidiary Loan Agreement in an Investment Enterprise for an Investment Project.

(g) "Investment Enterprise" means an enterprise to which BAPINDO proposes to make or has made a sub-loan or in which it proposes to make or has made an investment.

(h) "Investment Project" means a specific development project to be carried out by an Investment Enterprise utilizing the proceeds of a sub-loan or investment.

(i) "Statement of Policy" means the statement of lending and investment policy adopted by the Board of Managing Directors and approved by the Supervisory Board of BAPINDO on May 19, 1972 as amended from time to time with the agreement of the Association.

(j) "Subsidiary" means any company of which the majority of the outstanding voting stock or other proprietary interest is owned or effectively controlled by BAPINDO or by any one or more subsidiaries of BAPINDO or by BAPINDO and one or more of its subsidiaries.

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 ten million dollars (\$10,000,000), for use by BADINPO.

Section 2.02. The Borrower irrevocably designates BAPINDO as its representative for the purposes of taking any action required or permitted under the provisions of Section 2.03 of this Agreement and Article V of the General Conditions.

Section 2.03. (a) Pursuant to Section 2.02 of this Agreement, BAPINDO, on behalf of the Borrower, may withdraw from the Credit Account in respect of the reasonable cost of goods or services required for the Investment Project in respect of which the withdrawal is requested:

- (i) such amounts as shall have been expended (or, if the Association shall so agree, shall be required to meet expenditures to be made) in a currency other than the currency of the Borrower for goods procured, or services supplied from, outside the territories of the Borrower;
- (ii) the equivalent of forty per cent (40%) of such amounts as shall have been expended for civil construction, which percentage represents the estimated foreign exchange component of such services; and
- (iii) the equivalent of sixty per cent (60%) of such amounts as shall have been expended for industrial machinery and equipment and transport equipment procured in the territories of the Borrower, which percentage represents the estimated foreign exchange component of such goods;

provided, however, that no withdrawal shall be made in respect of an Investment Project unless (i) the sub-loan or investment for such Investment Project shall have been approved by the Association, or (ii) the sub-loan for such Investment Project shall be a free-limit sub-loan for which the Association shall have authorized withdrawals from the Credit Account.

(b) A free-limit sub-loan shall be a sub-loan in an amount to be financed under the Development Credit Agreement which, together with any other amount or amounts financed or proposed to be financed for the same project out of the proceeds of the Credit, and not repaid, shall not exceed in the aggregate the equivalent of one hundred thousand dollars (\$100,000) and which, when added to all other free-limit sub-loans financed out of the proceeds of this Credit, shall not exceed in the aggregate the equivalent of two million five hundred thousand dollars (\$2,500,000), the foregoing amounts being subject to change from time to time as determined by the Association.

(c) Except as the Association and BAPINDO shall otherwise agree and subject to the limitation contained in Section 5.01 (a) of the General Conditions, no withdrawals shall be made on account of expenditures made by an Investment Enterprise in respect of a sub-loan subject to the Association's approval, or an investment, more than ninety days prior to the date on which the Association shall have received in respect of such sub-loan or investment the application and information required by Section 2.02 (b) of the Project Agreement or, under a free-limit sub-loan, more than ninety days prior to the date on which the Association shall have received in respect of such free-limit sub-loan the request and information required by Section 2.02 (c) of the Project Agreement.

Section 2.04. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

Section 2.05. The Closing Date shall be December 31, 1976 or such other date as shall be determined by the Association.

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 March 1 and September 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 March 1 and September 1 commencing September 1, 1982 and ending March 1, 2022, each installment to and including the installment payable on March 1, 1992 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

DESCRIPTION OF THE PROJECT; USE OF PROCEEDS OF THE CREDIT

Section 3.01. The purpose of the Project for which the Credit is granted is to assist BAPINDO in financing the development of productive facilities and resources in the territories of the Borrower. The Project consists in the financing by BAPINDO of specific development projects through loans to and investments in enterprises in the territories of the Borrower in accordance with the BAPINDO Act and the Statement of Policy.

Section 3.02. (a) The Borrower shall relend the proceeds of the Credit to BAPINDO pursuant to a Subsidiary Loan Agreement containing terms and conditions satisfactory to the Association.

(b) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Association, and, except as the Association shall otherwise agree, the Borrower shall not assign, or amend, abrogate or waive any provision of, the Subsidiary Loan Agreement.

Article IV

ADDITIONAL COVENANTS

Section 4.01. The Borrower shall not take, or permit any of its political subdivisions or any of its agencies or instrumentalities or any agency or instrumentality of any political subdivision to take, any action which would prevent or materially interfere with the performance by BAPINDO of any of its obligations under the Project Agreement or the Subsidiary Loan Agreement, and shall take or cause to be taken all reasonable action which shall be required on its part in order to enable BAPINDO to perform such obligations.

Section 4.02. 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.

Article V

CONSULTATION AND INFORMATION

Section 5.01. (a) 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, exchange views through their representatives with regard to (i) the performance of the respective obligations of the parties under the Development Credit Agreement, the Project Agreement and the Subsidiary Loan Agreement; (ii) the administration, operations and financial condition of BAPINDO and its subsidiaries, including any proposal to amend the BAPINDO Act; and (iii) any other matters relating to the purposes of the Credit.

(b) The Borrower shall furnish to the Association all such information as the Association shall reasonably request concerning financial and economic conditions in the territories of the Borrower, including its balance

of payments, and the external debt of the Borrower, of any of its political subdivisions and of any agency of the Borrower or of any such political subdivision.

Section 5.02. 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.

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, the Project Agreement and the Subsidiary Loan 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.

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, together with such charges, shall become due and payable immediately, anything in this Development Credit Agreement to the contrary notwithstanding.

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

- (a) any part of the principal amount of any loan to BAPINDO having an original maturity of one year or more shall, in accordance with its terms, have become due and payable in advance of maturity as provided in the relative contractual instruments, or any security for any such loan shall have become enforceable;
- (b) BAPINDO shall have been unable to pay its debts as they mature or any action or proceeding shall have been taken by BAPINDO or by others whereby any of the property of BAPINDO shall or may be distributed among its creditors;
- (c) the BAPINDO Act shall have been amended, suspended, abrogated, repealed or waived so as, in the judgment of the Association, to affect materially the carrying out of the Project or the operations or financial condition of BAPINDO or the efficiency of BAPINDO's management or personnel;
- (d) the Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of BAPINDO or for the suspension of all or part of BAPINDO's operations;
- (e) a subsidiary or any other entity shall have been created or acquired or taken over by BAPINDO, if such creation, acquisition or taking over would adversely and materially affect the conduct of BAPINDO's business or BAPINDO's financial situation or the efficiency of BAPINDO's management and personnel or the carrying out of the Project; and
- (f) a default shall occur in the performance of any obligation of BAPINDO under the Project Agreement.

Section 7.03. For the purposes of Section 7.01 of the General Conditions, the following additional events are specified:

- (a) Any of the events specified in Section 7.02 (a), (b), (c) or (d) of this Agreement shall occur.
- (b) Any of the events specified in Section 7.02 (e) or (f) of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Association to the Borrower and to BAPINDO

Article VIII

EFFECTIVE DATE; TERMINATION

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

- (a) the execution and delivery of the Project Agreement on behalf of BAPINDO have been duly authorized or ratified by all necessary corporate and governmental action; and
- (b) the Borrower and BAPINDO have entered into the Subsidiary Loan Agreement in form and substance satisfactory to the Association, and the Subsidiary Loan Agreement has become fully effective and binding on the parties thereto in accordance with its terms, subject only to the effectiveness of this Agreement.

Section 8.02. The following are specified as additional matters, within the meaning of Section 10.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

- (a) that the Project Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, BAPINDO and constitutes a valid and binding obligation of BAPINDO in accordance with its terms; and
- (b) that the Subsidiary Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and BAPINDO and constitutes valid and binding obligations of the Borrower and BAPINDO in accordance with its terms, subject only to the effectiveness of this Agreement.

Section 8.03. The date August 15, 1972 is hereby specified for the purposes of Section 10.04 of the General Conditions.

Article IX

MISCELLANEOUS

Section 9.01. Subject to the provisions of Section 2.02 of this Agreement, the Minister of Finance 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:

Ministry of Finance
Post Office Box 21
Djakarta, Indonesia

Cable address:

Ministry Finance
Djakarta

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.

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 Indonesia:

By ALI WARDHANA
Authorized Representative

International Development Association:

By J. BURKE KNAPP
Vice President

SCHEDULE 1

MODIFICATIONS OF THE GENERAL CONDITIONS

For the purposes of the Development Credit Agreement, the provisions of the General Conditions are modified as follows:

(1) The words "Investment Projects" are substituted for the words "the Project" at the end of Section 5.03.

(2) Section 6.02 (*h*) is deleted and Section 6.02 (*i*) is renumbered into Section 6.02 (*h*).

(3) Section 6.03 is deleted and replaced by the following new Section:

"SECTION 6.03. *Cancellation by the Association.* If (*a*) the right of the Borrower to make withdrawals from the Credit Account shall have been suspended with respect to any amount of the Credit for a continuous period of thirty days, or (*b*) by the date specified in paragraph (*e*) of Section 2.02 of the Project Agreement no applications or requests permitted under paragraph (*a*) or paragraph (*b*) of such Section shall have been received by the Association in respect of any portion of the Credit, or having been so received, shall have

been denied, or (c) after the Closing Date an amount of the Credit shall remain unwithdrawn from the Credit Account, the Association may by notice to the Borrower terminate the right of BAPINDO to submit such applications or requests or to make withdrawals from the Credit Account, as the case may be, with respect to such amount or portion of the Credit. Upon the giving of such notice such amount or portion of the Credit shall be cancelled.”

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.*]