

No. 12270

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT,
INTERNATIONAL DEVELOPMENT
ASSOCIATION, ECUADOR and EMPRESA
ELÉCTRICA "QUITO" S.A.**

Letter Agreement concerning certain waivers of the provisions of the Development Credit Agreement between the International Development Association and Ecuador signed at Washington on 15 February 1972. Dated at Washington on 22 November 1972, and confirmed on 30 November 1972 by Empresa Eléctrica "Quito" S.A. and on 12 December 1972 by Ecuador

Authentic text : English.

Registered by the International Bank for Reconstruction and Development and the International Development Association on 22 January 1973.

**BANQUE INTERNATIONALE POUR
LA RECONSTRUCTION ET LE DÉVELOPPEMENT,
ASSOCIATION INTERNATIONALE
DE DÉVELOPPEMENT, ÉQUATEUR et EMPRESA
ELÉCTRICA « QUITO » S.A.**

Accord par lettre relatif à certaines dispenses touchant l'application des dispositions du Contrat de crédit de développement entre l'Association internationale de développement et l'Équateur signé à Washington le 15 février 1972. Daté à Washington du 22 novembre 1972, et confirmé le 30 novembre 1972 par la Empresa Eléctrica « Quito » S.A. et le 12 décembre 1972 par l'Équateur

Texte authentique : anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement et l'Association internationale de développement le 22 janvier 1973.

LETTER AGREEMENT¹ BETWEEN THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, THE INTERNATIONAL DEVELOPMENT ASSOCIATION, THE GOVERNMENT OF ECUADOR AND THE EMPRESA ELÉCTRICA “QUITO” S.A. CONCERNING CERTAIN WAIVERS OF THE PROVISIONS OF THE DEVELOPMENT CREDIT AGREEMENT BETWEEN THE INTERNATIONAL DEVELOPMENT ASSOCIATION AND ECUADOR SIGNED AT WASHINGTON ON 15 FEBRUARY 1972²

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
INTERNATIONAL DEVELOPMENT ASSOCIATION

November 22, 1972

Re: Credit No. 286-EC (*Third Power Project*)
Effectiveness

Dear Sirs,

We refer to the conditions precedent to the effectiveness of the Development Credit Agreement² (*Third Power Project*) between the Republic of Ecuador (the Borrower) and the International Development Association (the Association) and the Project Agreement³ (*Third Power Project*) between the Association and Empresa Eléctrica “Quito” S.A. (the Company), both dated February 15, 1972, and to the requests received from you to waive some of those conditions. In this respect, the Association wishes to inform you as follows:

I. *Section 8.01 (f) of the Development Credit Agreement*

The Mortgage provided for under section 4.04 of the Project Agreement had been agreed in view of the mortgage originally required by the Comisión de Valores-Corporación Financiera Nacional (CFN) as security for their loan to the Company to help finance the Third Power Project. We have taken note that the loan agreement between CFN and the Company, dated August 28, 1972, does not provide that the loan be secured with a mortgage on the Company's assets. Consequently, the Bank and the Association will not require that the Mortgage provided under section 4.04 of the Project Agreement be created as a condition of effectiveness of the Development Credit Agreement.

We have also noted that clause 3 of the aforesaid loan agreement between CFN and the Company creates a lien in favor of CFN upon certain receivables of the Company. As you know, pursuant to certain provisions of the loan agreements between the Bank and the Company and of the Project Agreement, the creation of such liens is subject to the consent of the Bank and the Association. After analyzing the circumstances present in this case, we are glad to inform you that the Bank and the Association hereby consent to the creation of the lien provided for under clause 3 of the aforesaid loan agreement between CFN and the Company.

¹ Came into force on 15 December 1972, the date on which the said Development Credit Agreement (see p. 159 of this volume) entered into force.

² See p. 159 of this volume.

³ See footnote 2 on p. 160 of this volume.

II. *Section 8.01 (e) of the Development Credit Agreement*

We think that all parties concerned are in agreement that the amendment of the Company's Estatutos, dated August 18, 1972, failed to make them consistent with the provisions of *Decreto Supremo* No. 86, dated January 20, 1971. The Company has explained to us the reasons why this happened and stated that the situation will be solved, not later than January 30, 1973, either through an amendment to *Decreto Supremo* No. 86 or through a decree exempting the Company from complying with *Decreto Supremo* No. 86. In view of the foregoing, the Association is willing to waive the provisions of section 8.01 (e) of the Development Credit Agreement as a condition of effectiveness of such Agreement with the understanding that :

- (a) pursuant to section 3.03 (a) (ii) of the Project Agreement and section 3.01 (e) of the Development Credit Agreement, the Company and the Borrower shall, not later than March 31, 1973, comply with the provisions of Section 8.01(e) of the Development Credit Agreement; and
- (b) disbursements from the Credit Account prior to the date of compliance as specified in sub-paragraph (a) above shall not exceed the equivalent of U.S. \$2.8 million.

III. *Section 8.01 (h) of the Development Credit Agreement*

The agreement between the Municipality of Quito, the Instituto Ecuatoriano de Seguridad Social and the Company, dated September 18, 1972, (the Distribution Networks Agreement) provides that distribution networks constructed after January 1, 1971 shall not be transferred by the Municipality to the Company until (1) the Company's capital has been increased in an amount equivalent to the agreed value of such networks, and (2) the Municipality has received Company's preferred stock representing such value. The Company has explained to us that it cannot comply with those two requisites for the same reasons that prevented it from complying with Section 8.01(e) of the Development Credit Agreement and that, likewise, the situation will be solved not later than January 30, 1973. In view of the foregoing, the Association is willing to waive the provisions of Section 8.01(h) of the Development Credit Agreement as a condition of effectiveness of such Agreement, with the understanding that:

- (a) the Company shall, not later than March 31, 1973, (i) take delivery of all power distribution facilities over which the Municipality of Quito shall have acquired ownership after December 31, 1970, (ii) include, in accordance with and for the purposes of section 4.05 (a) of the Project Agreement, such facilities among the fixed assets of the Company as of January 1, 1973, and (iii) comply, in all other respects, with the provisions of section 8.01 (h) of the Development Credit Agreement, all in conformity with the provisions of the Distribution Networks Agreement; and
- (b) disbursements from the Credit Account prior to the date of compliance as specified in sub-paragraph (a) above shall not exceed the equivalent of U.S. \$2.8 million.

We trust that the foregoing will prove helpful in accelerating the effectiveness of the Development Credit and the Project Agreements to assure the successful execution of the Third Power Project. If you are in agreement with all the provisions of this letter,

please so indicate by signing and dating the form of confirmation below in the enclosed copy of this letter and returning it to us.

Sincerely yours,

International Bank for Reconstruction and Development :
International Development Association :

[Signed]

EDGAR GUTIÉRREZ
Director, Country Programs Department
Latin America and the Caribbean Regional Office

Sr. Ministro de Finanzas
de la República del Ecuador
Don Néstor Vega Moreno
Ministerio de Finanzas
Quito, Ecuador
Sres. Presidente y Gerente General
de la Empresa Eléctrica « Quito » S.A.
Arq. Sixto Durán Ballén
Dr. Juan Sevilla S.
Quito, Ecuador

Confirmed:

Republic of Ecuador :

By: [Signed — Signé]¹

Authorized Representative

Date : 12/12/72

Empresa Eléctrica « Quito » S.A. :

By: [Signed — Signé]²

Authorized Representative

Date : Quito, Noviembre 30 de 1.972

Empresa Eléctrica « Quito » S.A. :

By: [Signed — Signé]³

Authorized Representative

Gerente General

Date : Quito, Noviembre 30 de 1.972

¹ Signed by Dr. Alberto Quevedo T. — Signé par Dr. Alberto Quevedo T.

² Signed by Durán Ballén — Signé par Durán Ballén.

³ Signed by Juan Sevilla — Signé par Juan Sevilla.