

No. 12596

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**SWEDEN**  
**and**  
**UNITED REPUBLIC OF TANZANIA**

**Development Credit Agreement—*Kidatu Hydroelectric Project* (with annex). Signed at Washington on 14 December 1970**

*Authentic text: English.*

*Registered by Sweden on 14 June 1973.*

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**SUÈDE**  
**et**  
**RÉPUBLIQUE-UNIE DE TANZANIE**

**Contrat de crédit de développement — *Project hydro-électrique de Kidatu* (avec annexe). Signé à Washington le 14 décembre 1970**

*Texte authentique : anglais.*

*Enregistré par la Suède le 14 juin 1973.*

DEVELOPMENT CREDIT AGREEMENT<sup>1</sup>*(KIDATU HYDROELECTRIC PROJECT)*

BETWEEN THE KINGDOM OF SWEDEN, ON THE ONE HAND  
AND THE UNITED REPUBLIC OF TANZANIA, ON THE OTHER HAND  
(HEREINAFTER CALLED THE AGREEMENT)

WHEREAS the Kingdom of Sweden and the United Republic of Tanzania, desiring to strengthen the cooperation and cordial relations between them, have agreed that as a contribution to the economic and social development of Tanzania, the Kingdom of Sweden (hereinafter called the Lender) shall extend to the United Republic of Tanzania (hereinafter called the Borrower) a development credit (hereinafter called the Swedish Credit) to assist in the financing of a hydroelectric project (hereinafter called the Project), to be undertaken by the Tanzania Electric Supply Company Limited (hereinafter called the Company);

WHEREAS the Company has entered into a loan agreement of even date<sup>2</sup> (hereinafter called the Bank Agreement) with the International Bank for Reconstruction and Development (hereinafter called the Bank) with regard to further assistance towards the financing of the Project;

WHEREAS the Borrower has also entered into a guarantee agreement of even date<sup>3</sup> (hereinafter called the Guarantee Agreement) with the Bank guaranteeing the obligations of the Company according to the Bank Agreement; and

WHEREAS the Lender, the Borrower, the Bank and the Company have also entered into an agreement of even date<sup>4</sup> (hereinafter called the Joint Financing Agreement) in respect of the allocation, withdrawal and use of the proceeds of financing under the aforementioned agreements and the execution of the Project, as well as other matters;

NOW THEREFORE the Lender and the Borrower agree as follows:

*Article I. THE SWEDISH CREDIT*

1. The Lender shall make available to the Borrower a development credit in an amount of sixty-three million Swedish Kronor (SKr 63,000,000) subject to the provisions of the Agreement, of which the attached annex forms an integral part, and to such other provisions as may be agreed upon between the Parties.

2. The Swedish Credit shall be available for withdrawal in an amount of SKr 11,000,000 from the effective date of the Agreement, in a further amount of SKr 14,000,000 from July 1, 1971, in a further amount of SKr 15,000,000 from July 1, 1972, and in its entirety from July 1, 1973.

*Article II. USE OF THE PROCEEDS OF THE SWEDISH CREDIT*

The Borrower shall cause the proceeds of the Swedish Credit to be used by the Company in accordance with the Agreement and the Joint Financing Agreement to as-

<sup>1</sup> Came into force on 14 December 1970 by signature, with effect from 31 March 1971, the date when the related Guarantee Agreement between the Bank and the United Republic of Tanzania (see foot-note 3 below) became effective, in accordance with article VII (1).

<sup>2</sup> See foot-note 3, p. 4 of this volume.

<sup>3</sup> See p. 3 of this volume.

<sup>4</sup> See p. 13 of this volume.

sist, jointly with the loan provided for under the Bank Agreement, in financing the Project. To that end, the Borrower shall relend the proceeds of the Swedish Credit to the Company on the same terms and conditions with respect to interest and amortizations as apply according to the Bank Agreement. Funds paid by the Company to the Borrower as interest or amortization in respect of the proceeds under the relending, which are not currently required by the Borrower to service the Swedish Credit shall, for a period of ten years from the date of this Agreement, be used by the Borrower for such projects and in such manner as shall be agreed from time to time between the Borrower and the Swedish International Development Authority acting on behalf of the Lender.

#### *Article III. THE SPECIAL ACCOUNT*

The amount to be made available in accordance with article I shall be paid by the Lender, as required to meet requests by the Borrower for withdrawals, to the credit of an account in Swedish Kronor opened in the books of the Sveriges Riksbank, Stockholm, acting as agent for the Lender. The account shall be denominated "Bank of Tanzania, Special Account No. 8" (hereinafter called the Special Account).

#### *Article IV. WITHDRAWAL FROM THE SPECIAL ACCOUNT*

1. The Company, on behalf of the Borrower, shall be entitled, subject to the provisions of the Agreement and the Joint Financing Agreement, to withdraw from the Special Account such proportion of the reasonable cost of goods and services required for the Project and to be financed by the Lender and the Bank, either separately or simultaneously, as agreed in accordance with the terms of the Joint Financing Agreement.

2. The closing date for withdrawals shall be June 30, 1976, or such other date as may be agreed upon between the Parties.

#### *Article V. SERVICE OF THE SWEDISH CREDIT*

1. The Borrower shall be obligated to pay to the Lender 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 Swedish Credit withdrawn from the Special Account and outstanding from time to time. The service charge shall be payable semi-annually on June 30 and December 31 each year. The first payment shall, however, be made not before December 31, 1971. The service charge shall be computed on the basis of a 360-day year of twelve 30-day months.

2. The Borrower shall be obligated to repay to the Lender the principal of the Swedish Credit withdrawn from the Special Account in semi-annual installments payable on June 30 and December 31 commencing December 31, 1981, and ending June 30, 2021, each installment to and including the installment payable on June 30, 1991, to be one-half per cent ( $\frac{1}{2}\%$ ) of such principal amount and each installment thereafter to be one and one-half per cent ( $1\frac{1}{2}\%$ ) of such principal amount. The Borrower shall have the right to repay in advance of maturity all or any part of the principal amount of one or more maturities of the Swedish Credit specified by the Borrower.

3. The principal of and service charge on the Swedish Credit shall be paid by the Borrower in Swedish Kronor to the Sveriges Riksbank in favor of the Lender.

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

*Article VI. MISCELLANEOUS*

1. The Borrower shall take all necessary steps within its power to enable the Company to perform, and shall not take any action which would prevent the Company from performing, the covenants, agreements and obligations of the Company under the Joint Financing Agreement.

2. The Borrower shall furnish to the Lender evidence of the authority of the person or persons who will, on behalf of the Borrower, take any action or execute any document under the Agreement.

3. Any notice or request under the Agreement and any agreement between the Parties contemplated by the Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when delivered through diplomatic channels.

*Article VII. EFFECTIVE DATE; TERMINATION*

1. The Agreement shall become effective after it has been signed by duly authorized representatives of the Parties and concurrently with the Bank Agreement becoming effective.

2. The Agreement and all obligations of the Parties hereunder, except those set forth in article V and in the annex, shall terminate on a date 25 years after the date of the Agreement or the date upon which the Parties shall have fulfilled all obligations, including those set forth in article V, arising from the Agreement, whichever shall be the earlier.

IN WITNESS WHEREOF, the Kingdom of Sweden and the United Republic of Tanzania, acting through their representatives thereunto duly authorized, have caused the Agreement to be signed.

DONE in the District of Columbia, United States of America, on the 14th day of December, 1970, in two original copies in English.

For the Kingdom of Sweden:

[Signed]

HUBERT DE BESCHE

For the United Republic of Tanzania:

[Signed]

G. M. RUTABANZIBWA

ANNEX

The following provisions shall govern the rights and obligations under the Agreement, of which they are considered an integral part with the same force and effect as if they were fully set forth therein.

*Paragraph 1. Cancellation and Suspension*

1.1. The Borrower may by notice to the Lender cancel any amount of the Swedish Credit which the Borrower shall not have withdrawn, or with respect to which the Lender shall not be bound through a special commitment entered into by the Bank pursuant to the Joint Financing Agreement, prior to the giving of such notice.

1.2. If any of the following events shall have happened and be continuing, the Lender may by notice to the Borrower suspend, in whole or in part, the right of the Borrower to make withdrawals from the Special Account:

- (a) A default shall have occurred in the payment of principal or service charge under the Agreement.
- (b) The Borrower or the Company shall have failed to meet any other obligation under the Agreement or the Joint Financing Agreement and shall not have rectified such failure after notice by the Lender.
- (c) An extraordinary situation shall have arisen which shall make it improbable that the Borrower will be able to perform its obligations under the Agreement.
- (d) The right of the Company to withdraw the proceeds of the Loan provided for in the Bank Agreement shall have been suspended or terminated, in whole or in part.
- (e) The outstanding principal of the Loan provided for in the Bank Agreement shall have been declared, or become, due and payable in advance of the agreed maturity thereof.
- (f) The Company shall have cancelled any part of the Loan provided for in the Bank Agreement without the Borrower's having cancelled a corresponding proportion of the Swedish Credit.

1.3. The right of the Borrower to make withdrawals from the Special Account shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to such suspension shall have ceased to exist or until the Lender shall have notified the Borrower that the right to make withdrawals has been restored, whichever is the earlier, provided, however, that in the case of any such notice of restoration, the right to make withdrawals shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall affect or impair any rights, power or remedy of the Lender in respect of any other or subsequent event described in this paragraph.

1.4. If (a) the right of the Borrower to make withdrawals from the Special Account shall have been suspended with respect to any amount of the Swedish Credit for a continuous period of thirty days, or (b) by the date specified in article IV, section 2, of the Agreement as the closing date an amount of the Swedish Credit shall remain unwithdrawn from the Special Account, the Lender may by notice to the Borrower terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice such amount of the Swedish Credit shall be cancelled.

1.5. No cancellation or suspension by the Lender shall apply to amounts with respect to which the Lender shall be bound through a special commitment entered into by the Bank pursuant to the Joint Financing Agreement.

1.6. Notwithstanding any cancellation or suspension all the provisions of the Agreement shall continue in full force and effect except as in this paragraph specifically provided.

#### *Paragraph 2. Remedies of the Lender*

If any event specified in sub-paragraphs 1.2 (a), (d) or (f) of paragraph 1 shall occur and shall continue for a period of thirty days, or if any event specified in sub-paragraphs 1.2 (b) or (c) of paragraph 1 shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Lender to the Borrower, or if the event specified in sub-paragraph 1.2 (e) of paragraph 1 shall occur, then at any subsequent time the Lender, at his option, may declare the principal of the Swedish Credit then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in the Agreement to the contrary notwithstanding.

#### *Paragraph 3. Failure to Exercise Rights*

No delay in exercising, or omission to exercise any right, power or remedy accruing to either Party under the Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such

Party in respect of any default or any acquiescence in any default, affect or impair any right, power or remedy of such Party in respect of any other or subsequent default.

*Paragraph 4. Arbitration*

(a) Any controversy between the Parties to the Agreement and any claim by either Party against the other arising under the Agreement which cannot be settled in a satisfactory manner through diplomatic channels, within six months, will at the request of either Party be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

(b) The Parties to such arbitration shall be the Lender and the Borrower.

(c) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one arbitrator shall be appointed by the Lender; a second arbitrator shall be appointed by the Borrower; and the third arbitrator (hereinafter called the presiding arbitrator) shall be appointed by agreement of the Parties or, if they shall not agree, by the President of the International Court of Justice or failing appointment by him, by the Secretary-General of the United Nations. If either of the Parties shall fail to appoint an arbitrator, such arbitrator shall be appointed by the presiding arbitrator. In case any arbitrator appointed in accordance with this paragraph shall resign, die or become unable to act, a successor arbitrator shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator and such successor shall have all the powers and duties of such original arbitrator.

(d) Arbitration proceedings may be instituted under this paragraph upon notice by the Party instituting such proceeding to the other Party. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration, the nature of the relief sought, and the name of the arbitrator appointed by the Party instituting such proceeding. Within thirty days after the giving of such notice, the adverse Party shall notify the Party instituting the proceeding of the name of the arbitrator appointed by such adverse Party.

(e) If, within sixty days after the giving of such notice instituting the arbitration proceeding, the Parties shall not have agreed upon a presiding arbitrator, either Party may request the appointment of a presiding arbitrator as provided in sub-paragraph (c) of this paragraph.

(f) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the presiding arbitrator. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.

(g) Subject to the provisions of this paragraph and except as the Parties shall otherwise agree, the Arbitral Tribunal shall decide all questions relating to its competence and shall determine its procedure. All decisions of the Arbitral Tribunal shall be by a majority vote.

(h) The Arbitral Tribunal shall afford to the Parties a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by a majority of the Arbitral Tribunal shall constitute the award of such Tribunal. A signed counterpart of the award shall be transmitted to each Party. Any such award rendered in accordance with the provisions of this paragraph shall be final and binding upon the Parties to the Agreement. Each Party shall abide by and comply with any such award rendered by the Arbitral Tribunal in accordance with the provisions of this paragraph.

(i) The provisions for arbitration set forth in this paragraph shall be in lieu of any other procedure for the determination of controversies between the Parties to the Agreement and any claims by either Party against the other Party arising thereunder.

(j) Service of any notice or process in connection with any proceeding under this paragraph or in connection with any proceeding to enforce any award rendered pursuant to this paragraph shall be made through diplomatic channels.