

No. 12565

**SWEDEN
and
ETHIOPIA**

**Development Credit Agreement—*Fourth Highway Project*
(with schedule, annex and related letter). Signed at
Washington on 15 January 1968**

Authentic text: English.

Registered by Sweden on 14 June 1973.

**SUÈDE
et
ÉTHIOPIE**

**Contrat de crédit de développement — *Quatrième projet
relatif au réseau routier* (avec appendice, annexe et
lettre connexe). Signé à Washington le 15 janvier
1968**

Texte authentique : anglais.

Enregistré par la Suède le 14 juin 1973.

DEVELOPMENT CREDIT AGREEMENT¹*(FOURTH HIGHWAY PROJECT)*

BETWEEN THE KINGDOM OF SWEDEN AND THE EMPIRE OF ETHIOPIA
(HEREINAFTER CALLED THE AGREEMENT)

The Kingdom of Sweden and the Empire of Ethiopia, desiring to strengthen the traditional cooperation and cordial relations between the two countries, have agreed that, as a contribution to the economic and social development of Ethiopia, the Kingdom of Sweden (hereinafter called the Lender) shall extend to the Empire of Ethiopia (hereinafter called the Borrower) a development credit (hereinafter called the Swedish Credit) to assist in the financing of a project (hereinafter called the Project) for highway construction, rehabilitation, betterment and maintenance.

The Borrower is also entering into a development credit agreement of even date² with the International Development Association (hereinafter called the Association) and a loan agreement of even date³ with the International Bank for Reconstruction and Development (hereinafter called the Bank) with regard to assistance towards financing the Project (hereinafter called the Association Agreement and the Bank Agreement respectively).

The Bank and the Association are further entering into an agreement of even date⁴ with the Imperial Highway Authority (hereinafter called the Authority) providing for the carrying out of the Project (hereinafter called the Project Agreement).

Article I. THE SWEDISH CREDIT

1. The Lender shall make available to the Borrower a development credit in an amount of Thirty Million Swedish Kronor (SKr 30,000,000) subject to the provisions of this Agreement, of which the attached annex forms an integral part, and to such other provisions as may be agreed upon between the Parties.

2. Of the total amount of the Swedish Credit, Six Million Swedish Kronor (SKr 6,000,000) have already been appropriated by the Swedish Parliament. The remaining portion of the Swedish Credit shall be subject to appropriation by the Swedish Parliament, in an amount of Ten Million Swedish Kronor (SKr 10,000,000) for the fiscal year 1968/69, in an amount of Ten Million Swedish Kronor (SKr 10,000,000) for the fiscal year 1969/70 and in an amount of Four Million Swedish Kronor (SKr 4,000,000) for the fiscal year 1970/71.

Article II. USE OF THE PROCEEDS OF THE SWEDISH CREDIT

1. The proceeds of the Swedish Credit shall be used, in accordance with more detailed provisions to be agreed upon between the Parties, to assist, jointly with a loan and a credit provided for under the Bank and the Association Agreements, respectively, exclusively in financing the Project described in the schedule to this Agreement.

¹ Came into force on 15 January 1968 by signature, with retroactive effect from 18 July 1967, the date when the related Loan Agreement between the Bank and Ethiopia (see foot-note 3 below) and Development Credit Agreement between the Association and Ethiopia (see foot-note 2 below) became effective, in accordance with article VIII (1).

² See p. 39 of this volume.

³ See p. 15 of this volume.

⁴ See p. 279 of this volume.

2. The Borrower shall cause the goods and services financed out of the proceeds of the Swedish Credit to be used exclusively in the carrying out of the Project.

Article III. THE SPECIAL ACCOUNT

1. 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, which shall be held in favour of the Borrower, shall be denominated "Empire of Ethiopia, Special Account No. I" (hereinafter called the Special Account).

2. If for purposes of financing the Project a currency other than Swedish Kronor shall be required and if a request shall be made to withdraw any proceeds of the Swedish Credit in such other currency, the Sveriges Riksbank shall remit the requested foreign currency amount and shall debit the Special Account with the Swedish Kronor equivalent of such amount calculated on the basis of the current market selling rate.

Article IV. WITHDRAWAL FROM THE SPECIAL ACCOUNT

1. The Borrower or its designated agent shall be entitled, subject to the provisions of this Agreement, and such other provisions as may be agreed upon between the Parties, to withdraw from the Special Account such portion of the total amount to be disbursed by the Lender, the Bank, and the Association in respect of any withdrawals application as may from time to time be agreed by them. The total amount so to be disbursed shall correspond to: (a) amounts expended, or, if the Lender shall so agree, to be expended for the reasonable foreign exchange cost of goods and services in respect of which withdrawals shall not have been made under the Bank Agreement or under the Association Agreement for carrying out parts C and D of the Project; and, (b) the equivalent of a percentage or percentages to be established from time to time by agreement between the Parties of such amounts as shall have been expended, or, if the Lender shall so agree, to be expended for the reasonable cost of goods and services required for carrying out parts A and B of the Project.

2. No withdrawals shall be made on account of costs incurred before the Date of Signature of this Agreement. The closing date for withdrawals shall be June 30, 1972, or such other date as may be agreed upon between the Parties.

3. The specific allocation of the proceeds of the Swedish Credit and the methods and procedures for procurement of the goods and services to be financed out of the proceeds of the Swedish Credit shall be determined by agreement between the Parties, subject to modification by further agreement between them.

Article V. SERVICE OF THE SWEDISH CREDIT

1. The Borrower shall pay to the Lender a service charge at the rate of three-fourths of one percent ($\frac{3}{4}$ 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 semiannually on July 15 and January 15 each year. The first payment shall, however, be made on January 15, 1969. The service charge shall be computed on the basis of a 360-day year of twelve 30-day months.

2. The Borrower shall repay to the lender the principal of the Swedish Credit withdrawn from the Special Account in semi-annual instalments payable on July 15 and

January 15 commencing January 15, 1978 and ending July 15, 2017 each instalment to and including the instalment payable on July 15, 1987 to be one-half of one percent ($1\frac{1}{2}$ of 1%) of such principal amount, and each instalment thereafter to be one and one-half percent ($1\frac{1}{2}\%$) 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 favour 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.

5. In regard to the service of the Swedish Credit the Borrower undertakes to give the Lender no less favourable treatment than that accorded to other foreign creditors.

Article VI. PARTICULAR COVENANTS

1. The Borrower shall cause the Project to be carried out and maintained with due diligence and efficiency and in conformity with sound engineering and financial practices.

(a) The Borrower shall at all times make or cause to be made available to the Authority promptly as needed, all funds, facilities, services and other resources required for carrying out, including maintenance, of the Project.

(b) The Borrower shall take all action which shall be necessary on its part to enable the Authority to perform all its obligations under the Project Agreement and shall not take or permit any action that would interfere with the performance of such obligations by the Authority.

2. The Borrower shall maintain or cause to be maintained records adequate to identify the goods and services financed out of the proceeds of the Swedish Credit, to disclose the use thereof in the Project, and to record the progress of the Project (including the cost thereof).

3. The Borrower and the Lender shall cooperate fully to ensure that the purpose of the Swedish Credit will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the Swedish Credit. The Borrower shall promptly inform the Lender of any condition which interferes with, or threatens to interfere with, the accomplishment of the purpose of the Swedish Credit or the service thereof.

4. The Borrower shall afford all reasonable opportunity for representatives of the Lender to visit any part of the territories of the Borrower for purposes related to the Swedish Credit and to inspect all relevant goods, works, records and documents.

5. The Borrower undertakes to grant Swedish suppliers adequate opportunities of bidding for the goods and services to be financed out of the proceeds of the Swedish Credit, and no less favourable treatment than that accorded to suppliers from other countries.

Article VII. MISCELLANEOUS

1. 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

documents under this Agreement, and the authenticated specimen signature of each such person.

2. Any notice or request under this Agreement and any agreement between the Parties contemplated by this 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 VIII. EFFECTIVE DATE; TERMINATION

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

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

IN WITNESS WHEREOF, the Kingdom of Sweden and the Empire of Ethiopia, acting through their representatives thereunto duly authorized, have caused this Agreement to be signed.

DONE in the District of Columbia, United States of America, on the 15th day of January, 1968, in two original copies in English.

For the Kingdom
of Sweden:

[Signed]

By HUBERT DE BESCHE
Authorized Representative

For the Empire
of Ethiopia:

[Signed]

BULCHA DEMEKSA
Authorized Representative

SCHEDULE

DESCRIPTION OF THE PROJECT

The Project includes the following parts:

Part A. Road Construction

1. Construction of a two-lane bitumen surfaced road, approximately 300 km long, between Awash and Tendaho;
2. Construction of a two-lane road, approximately 140 km long, between Bedelle and Gore; and
3. Supervisory services by consultants in connection with the foregoing.

Part B. Bituminous Surfacing

1. Placing base and bituminous surfacing on the road of approximately 125 km between Nazreth and Awash;
2. Placing base and bituminous surfacing on the road of approximately 45 km between Jimma and Agaro; and
3. Supervisory services by consultants in connection with the foregoing.

Part C. Feasibility Studies

The preparation of feasibility studies and the review of designs for about 800 km of high priority roads.

Part D. Advisory Services, Technical Services and Training Program

1. Advisory services for the implementation of the findings of the PAS report of October 7, 1966, with regard to the reorganization of the administration and operations of the Imperial Highway Authority;
2. A technical services program comprising the provision of senior expatriate personnel on the staff of the Authority; and
3. A training program abroad for selected personnel.

The schedule for completing the Project is as follows:

Part A is estimated to be completed by the end of 1971.

Part B is estimated to be completed by the end of 1970.

Part C is estimated to be completed by mid-1969.

Part D is estimated to be completed by mid-1971.

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

The Borrower may by notice to the Lender cancel any amount of the Swedish Credit which the Borrower shall not have withdrawn prior to the giving of such notice.

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 or in the payment of principal, service charge or interest under any other financial commitment entered into by the Borrower in relation to the Lender.
- (b) The Borrower shall have failed to meet any other obligation under the 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 Borrower to withdraw the proceeds of the Loan provided for in the Bank Agreement and/or of the Credit provided for in the Association 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 and/or the outstanding principal of the Credit provided for in the Association Agreement shall have been declared, or become, due and payable in advance of the agreed maturity thereof.
- (f) The Borrower shall have cancelled any part of the Credit provided for in the Association Agreement or the Loan provided for in the Bank Agreement without a cancellation of a corresponding proportion of the Swedish Credit.

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 right, power or remedy of the Lender in respect of any other or subsequent event described in this paragraph.

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 this 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.

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 subparagraph (a) of paragraph 1 shall occur and shall continue for a period of sixty days or, if any event specified in subparagraphs (b), (c) (d) or (f) 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 subparagraph (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, shall 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 subparagraph (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 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.

RELATED LETTER

ROYAL SWEDISH EMBASSY
WASHINGTON, D.C.

January 15, 1968

His Excellency Ato Bulcha Demeksa
Vice Minister of Finance
Empire of Ethiopia

*Re : Ethiopia
(Fourth Highway Project)*

Dear Sir,

With reference to the Development Credit Agreement of today's date (hereinafter called the Swedish Agreement) between the Kingdom of Sweden and the Empire of Ethiopia, I have the honour to propose that the following provisions should govern the implementation of article II, section 2 (procurement) and article VI of the Swedish Agreement.

1. *Definitions*

The terms and abbreviations used in the Swedish Agreement are used also in this letter.

2. *Responsibility for the Execution of the Project*

The Borrower shall delegate the immediate responsibility for the execution and maintenance of the Project to the Imperial Highway Authority (hereinafter called the Authority) established under the Highway Authority Proclamation 1950 (Proclamation No. 115 of 1951). Irrespective of any such delegation, however, the Borrower shall continue to be obliged, in relation to the Lender:

- (a) to cause the Project to be carried out and maintained in the manner set forth in article VI, section 1, of the Swedish Agreement; and
- (b) to secure the Lender's rights with regard to records, information and inspection in accordance with article VI, sections 2, 3 and 4.

3. *Supplemental Letters*

The Supplemental Letters signed in conjunction with the Bank Agreement and the Project Agreement on Procurement,¹ Highway Administration, and Technical Functions,¹ Consulting Engineers, Design Standards, Road User Charges, Awash Valley Irrigation and Budgetary Allocation, respectively, the provisions of which are agreeable to the Lender, make supplementary agreements between the Borrower and the Lender in these respects superfluous under present conditions. Should the present conditions change, however, the Parties shall consult with each other concerning appropriate provisions in these respects.

4. *Authority of the Bank to act on behalf of Sweden*

Unless the Lender specifies otherwise, the Bank may represent the Lender with respect to changes in the Supplemental Letter on changes in Allocation of Proceeds and Disbursement Percentages to the Bank Agreement, Association Agreement and the Swedish Agreement.

If the foregoing provisions are acceptable to the Empire of Ethiopia, I have the honour to suggest that you indicate your agreement with the foregoing by signing the form of confirmation on this letter, retaining a copy for your records, and returning another to me.

I have the honour to renew the assurances of my highest consideration.

Very truly yours,

Ambassador of Sweden:

[Signed — Signé]²

Confirmed:

Empire
of Ethiopia:

[Signed — Signé]³

By

Authorized Representative

¹ See p. 15 of this volume.

² Signed by Hubert de Besche — Signé par Hubert de Besche.

³ Signed by Bulcha Demeksa — Signé par Bulcha Demeksa.