

CONFORMED COPY

CREDIT NUMBER 2051 ZR

(Second Gecamines Technical Assistance Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

LA GENERALE DES CARRIERES ET DES MINES EXPLOITATION

Dated July 13, 1989

CREDIT NUMBER 2051 ZR

PROJECT AGREEMENT

AGREEMENT, dated July 13, 1989, between the INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and LA GENERALE DES CARRIERES ET DES MINES EXPLOITATION (Gecamines).

WHEREAS (A) by the Development Credit Agreement of even date herewith between the Republic of Zaire (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to fifteen million four hundred thousand Special Drawing Rights (SDR 15,400,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that Gecamines agree to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and Gecamines, the proceeds of the credit provided for under the Development Credit Agreement will be made available to Gecamines on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS Gecamines, in consideration of the Association's entering into the Development Credit Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Credit Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) Gecamines declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, economic, financial, engineering, environmental and mining practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Gecamines shall appoint and maintain until the completion of the Project a Project Coordinator.

Section 2.02. Except as the Association shall otherwise agree, the selection of the consultants and experts required for the Project and whose services are to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. Gecamines shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement.

Section 2.04. Gecamines shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Association shall otherwise agree, Gecamines shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) Gecamines shall, at the request of the Association, exchange views with the Association with regard to the progress of the Project, the performance of its obligations under this Agreement and under the Subsidiary Loan Agreement, and other matters relating to the purposes of the Credit.

(b) Gecamines shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Credit, or the performance by Gecamines of its obligations under this Agreement or under the Subsidiary Loan Agreement.

Section 2.06. As part of the information to be furnished to the Association pursuant to Section 2.03 of this Agreement and Section 9.06 of the General Conditions, Gecamines shall furnish to the Association annual reports on the status of the Project.

ARTICLE III

Management and Operations of Gecamines

Section 3.01. Gecamines shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, economic, commercial and management practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. Gecamines shall at all times operate and maintain its plant, machinery, equipment and other property and, from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, mining, financial, economic and industrial practices.

Section 3.03. Gecamines shall take out and maintain with responsible insurers, or make other provisions satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

Section 3.04. Gecamines shall furnish to the Association by the end of 1989 for its comments a preliminary ten-year production and financial plan and, by July 1, 1990, an environmental action plan.

Section 3.05. (a) Gecamines shall carry out a study comparing the actual costs of routine purchases made directly by it and those made through intermediaries, with suppliers' prices and prices in the international market, and shall furnish the results of such study to the Association by March 30, 1990.

(b) Upon the completion of such study, Gecamines shall, on the basis thereof, prepare a plan of action to achieve more cost-effective procurement procedures and shall exchange views with the Association on such plan.

(c) Such plan of action shall be implemented no later than September 30, 1990, taking into account the views of the Association thereon; prior to such date, Gecamines, in consultation with the Association, shall promptly take such actions as are within its powers to resolve any problems as they are identified.

Section 3.06. In order to strengthen the group responsible for the implementation of the rehabilitation project, Gecamines shall fill the eleven top-level vacancies by the end of 1989.

Section 3.07. Gecamines shall, by March 30, 1990, fully staff the Strategic Planning Unit agreed to be established pursuant to Section 4.04 of its Loan Agreement with the Bank dated September 18, 1986.

Section 3.08. Gecamines shall implement the policy on dividends approved by the Borrower and the Association by September 30, 1989.

ARTICLE IV

Financial Covenants

Section 4.01. (a) Gecamines shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) Gecamines shall:

(i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) and the Special Account audited for each fiscal year in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;

- (ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year: (A) certified copies of its financial statements for such year as so audited; and (B) the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and
- (iii) furnish to the Association such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Association shall from time to time reasonably request.

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of Gecamines thereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or
- (ii) the date 10 years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify Gecamines of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made 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 it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

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)
248423 (RCA) or
64145 (WUI)

For Gecamines:

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Schedule 1 to the Development Credit Agreement; and

(b) the term "Authorized Allocation" means an amount of \$1,500,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Association has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, Gecamines, on behalf of the Borrower, shall furnish to the Association a request or requests for a deposit or deposits which do not exceed the amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount or amounts as shall have been so requested.

(b) (i) For replenishment of the Special Account, Gecamines, on behalf of the Borrower, shall furnish to the Association requests for deposits into the Special Account at such intervals as shall be agreed between the Association and Gecamines.

(ii) Prior to or at the time of each such request, Gecamines shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount as shall have been so requested and as shall have been shown by said documents and other evidence to have been made out of the Special Account for eligible expenditures.

All such deposits shall be withdrawn by the Association from the Credit Account under the respective Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by Gecamines out of the Special Account, Gecamines shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

(a) if, at any time, the Association shall have determined that all further withdrawals should be made directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or

(b) once the total unwithdrawn amount of the Credit, less the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit shall follow such procedures as the Association shall specify by notice to the Borrower and Gecamines. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; (ii) was not justified by the evidence furnished to the Association, the Borrower or Gecamines shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no further deposit by the Association into the Special Account shall be made until the Borrower has provided such evidence or such deposit or refund has been made, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower or Gecamines shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) The Borrower or Gecamines may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) or (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, or the Development Credit Agreement, including the General Conditions.

