

CONFORMED COPY

LOAN NUMBER 3572 CHA

Financial Intermediaries
Project Agreement

(Tianjin Industrial Development Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

BANK OF COMMUNICATIONS, TIANJIN BRANCH

and

INDUSTRIAL AND COMMERCIAL BANK OF CHINA

Dated June 2, 1994

LOAN NUMBER 3572 CHA

FINANCIAL INTERMEDIARIES PROJECT AGREEMENT

AGREEMENT, dated June 2, 1994, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and BANK OF COMMUNICATIONS, TIANJIN BRANCH and INDUSTRIAL AND COMMERCIAL BANK OF CHINA (the Financial Intermediaries).

WHEREAS: (A) by the Loan Agreement of even date herewith between People's Republic of China (the Borrower) and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to one hundred fifty million dollars (\$150,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Financial Intermediaries agree to undertake such obligations toward the Bank as are set forth in this Agreement and that the Tianjin Municipality agree to undertake such obligations toward the Bank as are set forth in the Tianjin Project Agreement;

(B) by subsidiary loan agreements to be entered into between Tianjin Municipality and the Financial Intermediaries, a portion of the proceeds of the loan provided for under the Loan Agreement will be relented to the Financial Intermediaries on the terms and conditions set forth in said Subsidiary Loan Agreements; and

WHEREAS the Financial Intermediaries, in consideration of the Bank's entering into the Loan Agreement with the Borrower, have 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 Loan Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project;
Management and Operations of the Financial Intermediaries

Section 2.01. (a) Each Financial Intermediary declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out its respective part of Parts A and B.2 of the Project, in the case of ICBC, through its Tianjin branch, and conduct its operations and affairs in accordance with sound financial standards and practices, with qualified management and personnel, and in accordance with: (i) for BOCOM, the BOCOM Charter and the BOCOM Statement of Operating Policies and Procedures; and (ii) for ICBC, the ICBC Charter and the ICBC Policy Statement.

(b) Each Financial Intermediary shall carry out its respective part of Part B.2 of the Project in accordance a training program agreed with the Bank.

Section 2.02. (a) Each Financial Intermediary undertakes that, unless the Bank shall otherwise agree, Sub-loans shall be made in accordance with the procedures and on the terms and conditions set forth or referred to in Schedule 1 to this Agreement.

(b) Each Financial Intermediary shall exercise its rights in relation to each Investment Project financed by it in such manner as to: (i) protect the interests of the Bank and of the Financial Intermediary; (ii) comply with its obligations under this Agreement and its respective Subsidiary Loan Agreement; and (iii) achieve the purposes of the Project.

Section 2.03. Each Financial Intermediary shall carry out the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 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 and its respective part of Parts A and B.2 of the Project.

Section 2.04. Each Financial Intermediary shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, no Financial Intermediary shall take or concur in any action which would have the effect of amending, abrogating, assigning or waiving its respective Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) Each Financial Intermediary shall, at the request of the Bank, exchange views with the Bank with regard to the progress of its respective part of Parts A and B.2 of the project, the performance of its obligations under this Agreement and under its respective the Subsidiary Loan Agreement, and other matters relating to the purposes of the Loan.

(b) Each Financial Intermediary shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of its respective part of Parts A and B.2 of the Project, the accomplishment of the purposes of the Loan, or the performance by the Financial Intermediaries of its obligations under this Agreement and under its respective Subsidiary Loan Agreement.

Section 2.06. (a) Each Financial Intermediary shall exchange views with the Bank on any proposal to modify the following documents: (i) for BOCOM, the BOCOM Charter and the BOCOM Statement of Operating Policies and Procedures; and (ii) for ICBC, the ICBC Charter and the ICBC Policy Statement.

(b) From time to time, at the request of any party, each Financial Intermediary shall exchange views with the Borrower and the Bank on the interest rates to be charged by each Financial Intermediary in its lending operations in light of its cost of funds and profitability and of movements in interest and inflation rates in China and internationally.

Section 2.07. If any Financial Intermediary has, establishes or acquires any Subsidiary, such Financial Intermediary shall cause any such Subsidiary to which the obligations of such Financial Intermediary under this Agreement relate to observe and perform such obligations as though such obligations were binding upon such Subsidiary.

ARTICLE III

Financial Covenants

Section 3.01. (a) Each Financial Intermediary shall maintain procedures and records adequate to monitor and record the progress of its respective part of Parts A and B.2 of the Project and of each Investment Project (including its cost and the benefits to be derived from it) and to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of such Financial Intermediary.

(b) Each Financial Intermediary shall:

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

(ii) furnish to the Bank 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 Bank shall have reasonably requested; and

(iii) furnish to the Bank such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Bank shall from time to time reasonably request.

Section 3.02. Each Financial Intermediary shall take such steps satisfactory to the Bank as shall be necessary to protect itself against risk of loss resulting from changes in the rates of exchange between the various currencies (including Renminbi) used in its operations.

Section 3.03. (a) Except as the Bank and the Financial Intermediary concerned shall otherwise agree, no Financial Intermediary or any Subsidiary thereof shall incur any debt, if after the incurrence of such debt the ratio of debt to equity shall be greater than: (i) for BOCOM, 5 to 1; and (ii) for ICBC, 10 to 1.

(b) Except as the Bank and ICBC shall otherwise agree, neither ICBC nor any Subsidiary of ICBC shall incur any debt, if after the incurrence of such debt the ratio of total debt to equity shall be greater than 20:1.

(c) For purposes of this Section:

(i) The term "debt" means any indebtedness of the Financial Intermediary or Subsidiary maturing by its terms more than one year after the date on which it is originally incurred, except that the term "total debt" means any indebtedness of ICBC or any Subsidiary of ICBC regardless of when it matures by its terms.

(ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been

entered into.

(iii) The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of the Financial Intermediary and Subsidiary not allocated to cover specific liabilities.

(iv) Whenever for the purposes of this Section it shall be necessary to value, in terms of Renminbi, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Bank.

ARTICLE IV

Effective Date; Termination; Cancellation and Suspension

Section 4.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 4.02. This Agreement and all obligations of the Bank and of the Financial Intermediaries thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify the Financial Intermediaries thereof.

Section 4.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE V

Miscellaneous Provisions

Section 5.01. 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 Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

248423 (RCA)
82987 (FTCC)
64145 (WUI) or
197688 (TRT)

For BOCOM:

Bank of Communications, Tianjin Branch
70 Harbin Road
Tianjin 300041
People's Republic of China

Cable address:

0298 COMMUBANK
Tianjin

Telex:

234147 COMTJ CN

For ICBC:

Industrial and Commercial Bank of China, Tianjin Branch
7th floor, 11 Datong Road
Heping District
Tianjin
People's Republic of China

Cable address:

40402
Tianjin

Telex:

234020 ICBTJ CN

Section 5.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of a Financial Intermediary may be taken or executed by its President, or, in the case of ICBC, the President of its Tianjin branch, or such other person or persons any such President shall designate in writing, and each Financial Intermediary shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 5.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Guatam S. Kaji

Regional Vice President
East Asia and Pacific

BANK OF COMMUNICATIONS, TIANJIN BRANCH

INDUSTRIAL AND COMMERCIAL BANK OF CHINA by its
Tianjin branch

By /s/ Li Daoyu

Authorized Representative

SCHEDULE 1

Procedures for and Terms and Conditions
of Sub-loans

1. Principal Terms and Conditions of Sub-loans:

(a) Sub-loans shall bear interest on the principal amount withdrawn and outstanding from time to time, at a rate not less than the calculated rate in accordance with Section 2.05 (a) of the Loan Agreement, plus a spread of not less than one and two-tenths percent (1.2%).

(b) Repayment periods shall not extend beyond fifteen years, including up to three years of grace.

(c) Commitment charges shall be paid on the undisbursed balance of Sub-loans at the rate of three-quarters of one percent (0.75%) per annum.

(d) Each Investment Enterprise shall bear the foreign exchange risk on its Sub-loan between the Renminbi and the Bank's currency pool.

(e) No Sub-loan shall be made to an Investment Enterprise unless:

(i) the Investment Project shall be consistent with the Development Program and Strategy;

(ii) the Investment Project shall have minimum financial and economic rates of return of at least twelve percent (12%);

(iii) the Investment Enterprise shall have a satisfactory projected financial position as determined by generally accepted financial standards, including a debt-service coverage of at least 1.5 times, a current ratio of at least 1.5:1 and a debt:equity ratio of no more than 70:30; and

(iv) the Investment Enterprise has been established as a limited liability company or limited share company in accordance with the Development Program and Strategy, with a charter acceptable to the Bank.

(f) All Investment Projects shall have been approved by the Tianjin Municipal Environmental Protection Bureau, and each Financial Intermediary shall ensure that the Investment Projects to be financed by it are in compliance with environmental standards satisfactory to the Bank.

2. No expenditures for goods or services required for an Investment Project shall be eligible for financing out of the proceeds of the Loan unless:

(a) the Sub-loan for such Investment Project shall have been approved by the Bank and such expenditures shall have been made not earlier than ninety days prior to the date on which the Bank shall have received the application and information required under paragraph 3(a) of this Schedule in respect of such Sub-loan; or

(b) the Sub-loan for such Investment Project shall have been a free-limit Sub-loan for which the Bank has authorized withdrawals from the Loan Account and such expenditures shall have been made not earlier than ninety days prior to the date on which the Bank shall have received the request and information required under paragraph 3(b) of this Schedule in respect of such free-limit Sub-loan.

(i) For the purposes of the Loan Agreement and this Agreement, a free-limit Sub-loan shall be a Sub-loan for an Investment Project in an amount to be financed out of the proceeds of the Loan which, when added to any other outstanding amounts financed or proposed to be financed out of the proceeds of the Loan or of any other loan, provided for in any outstanding loan agreement between the Bank and the Borrower entered into before the date of this Agreement, the proceeds of which have been or are being used for financing goods and services directly and materially related to such Investment Project, shall not exceed in the aggregate the sum of \$4,000,000 equivalent, the foregoing amount being subject to change from time to time as determined by the Bank.

(ii) Notwithstanding the provisions of sub-paragraph (i) above, the first Sub-loan for an Investment Project in each Project Sub-sector and the first three Sub-loans proposed to be made by each Financial Intermediary shall not be eligible to be treated as free-limit Sub-loans.

3. (a) When presenting a Sub-loan (other than a free-limit Sub-loan) to the Bank for approval, a Financial Intermediary shall furnish to the Bank an application, in form satisfactory to the Bank, together with: (i) a description of the Investment Enterprise and an appraisal of the Investment Project, including a description of the expenditures proposed to be financed out of the proceeds of the Loan; (ii) the proposed terms and conditions of the Sub-loan, including the schedule of amortization of the Sub-loan; and (iii) such other information as the Bank shall reasonably request.

(b) Each request by a Financial Intermediary for authorization to make withdrawals from the Loan Account in respect of a free-limit Sub-loan shall contain: (i) a summary description of the Investment Enterprise and the Investment Project, including a description of the expenditures proposed to be financed out of the proceeds of the Loan; and (ii) the terms and conditions of the Sub-loan, including the schedule of amortization therefor.

(c) Applications and requests made pursuant to the provisions of sub-paragraphs (a) and (b) of this paragraph shall be presented to the Bank on or before June 30, 1996.

4. Sub-loans shall be made on terms whereby a Financial Intermediary shall obtain, by written contract with the Investment Enterprise or by other appropriate legal means, rights adequate to protect the interests of the Bank and such Financial Intermediary, including the right to:

(a) require the Investment Enterprise to carry out and operate the Investment Project with due diligence and efficiency and in accordance with sound technical, financial and managerial standards and to maintain adequate records;

(b) require that: (i) the goods and services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 2 to this Agreement; and (ii) such goods and services shall be used exclusively in the carrying out of the Investment Project;

(c) inspect, by itself or jointly with representatives of the Bank if the Bank shall so request, such goods and the sites, works, plants and construction included in the Investment Project, the operation thereof, and any relevant records and documents;

(d) require that: (i) the Investment Enterprise shall take out and maintain with responsible insurers such insurance, against such risks and in such amounts, as shall be consistent with sound business practice; and (ii) without any limitation upon the foregoing, such insurance shall cover hazards incident to the acquisition, transportation and delivery of goods financed out of the proceeds of the Loan to the place of use or installation, any indemnity thereunder to be made payable in a currency freely usable by the Investment Enterprise to replace or repair such goods;

(e) obtain all such information as the Bank or such Financial Intermediary shall reasonably request relating to the foregoing and to the administration, operations and financial condition of the Investment Enterprise and to the benefits to be derived from the Investment Project; and

(f) suspend or terminate the right of the Investment Enterprise to the use of the proceeds of the Loan upon failure by such Investment Enterprise to perform its obligations under its contract with such Financial Intermediary.

SCHEDULE 2

Procurement and Consultants' Services

Except as the Bank may otherwise agree, each Financial Intermediary shall cause Investment Enterprises to procure goods and services and shall employ consultants under Part B.2 of the Project in accordance with this Schedule.

1. Goods and services estimated to cost the equivalent of \$5,000,000 or more shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under World

Bank Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines). For the fixed-price contracts, the invitation to bid referred to in paragraph 2.13 of the Guidelines shall provide that, then contract award is delayed beyond the original bid validity period, the successful bidder's bid price will be increased for each week of delay by two predisclosed correction factors acceptable to the Bank, one to be applied to all foreign currency components and the other to the local currency component of the bid price. Such an increase shall not be taken into account in the bid evaluation.

2. In the procurement of goods in accordance with such procedures, goods manufactured in China may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

3. Goods and services estimated to cost less than the equivalent of \$5,000,000 per contract may be procured under contracts awarded on the basis of evaluation and comparison of price quotations obtained from at least three qualified suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Bank; except that proprietary equipment may be procured directly from the manufacturer in accordance with procedures acceptable to the Bank.

4. Review of procurement decisions by the Bank:

(a) Review of invitations to bid and of proposed awards and final contracts:

(i) With respect to each contract procured in accordance with paragraph 1 above, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Bank pursuant to said paragraph 2 (d) shall be furnished to the Bank prior to the making of the first payment out of the Special Account in respect of such contract.

(ii) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Bank pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 4 to the Loan Agreement.

(iii) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Loan Account are to be made on the basis of statements of expenditure.

(b) The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II: Employment of Consultants

In order to assist the Financial Intermediaries in carrying out Part B.2 of the Project, each Financial Intermediary shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by The World Bank as Executing Agency" published by the Bank in August 1981.

