

CONFORMED COPY

CREDIT NUMBER 2146 BD

(Third Fisheries Project)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated June 8, 1990

CREDIT NUMBER 2146 BD

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated June 8, 1990, between PEOPLE'S REPUBLIC OF BANGLADESH (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project;

(B) the Borrower intends to obtain from the Overseas Development Administration, an agency of the British Government (hereinafter called ODA) a grant (the ODA Grant) in an amount of \$4,300,000 equivalent to assist in financing Part F.1 of the Project on the terms and conditions set forth in an agreement (the ODA Grant Agreement) to be entered into between the Borrower and ODA; and

(C) the Borrower intends to obtain from the United Nations Development Programme (hereinafter called UNDP) a grant (the UNDP Grant) in an amount of \$4,200,000 equivalent to assist in financing Part F.2 of the Project on the terms and conditions set forth in an agreement (hereinafter called the UNDP Project Document) to be entered into between the Borrower and UNDP;

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985, with the last sentence of Section 3.02 deleted (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "BWDB" means the Bangladesh Water Development Board established and operating pursuant to the Bangladesh Water and Power Development Boards Order, 1972 (P.O. No. 59 of 1972) as amended to the date of this Agreement;

(b) "DOF" means the Department of Fisheries within the Borrower's Ministry of Fisheries and Livestock;

(c) "FRI" means the Fisheries Research Institute established pursuant to the Borrower's Fisheries Research Institute Ordinance, 1984 (No. XLV of 1984);

(d) "Implementing Agencies" means BWDB, DOF and FRI, collectively;

(e) "Project Area" means an area comprising about 70,000 square kilometers in the western part of the Borrower's territory, including the Rajshahi Division, the Khulna Division and part of the Dhaka Division;

(f) "Bangladesh Bank" means the bank established for carrying out the business of central banking under the Bangladesh Bank Order, 1972, (P.O. No. 127 of 1972) as amended to the date of this Agreement;

(g) "FY" means the Borrower's fiscal year commencing on July 1 and ending on June 30;

(h) "Special Accounts" means the accounts referred to in Section 2.02 (b) of this Agreement; and

(i) "TK" means Taka, the currency of the Borrower.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to thirty four million six hundred thousand Special Drawing Rights (SDR 34,600,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Credit.

(b) The Borrower shall, for the purposes of the Project, open and maintain in dollars three separate special deposit accounts in Bangladesh Bank in the name of the Implementing Agencies on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Accounts shall be made in accordance with the provisions of Schedule 5 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1996 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date and at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on January 15 and July 15 in each year.

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each January 15 and July 15 commencing July 15, 2000 and ending January 15, 2030. Each installment to and including the installment payable on January 15, 2010 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the terms of repayment of installments under paragraph (a) above by requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid. If so requested by the Borrower, the Association may revise such modification to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(c) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall carry out the Project through the Implementing Agencies with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and fisheries practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Borrower and the Association shall otherwise agree, the Borrower

shall carry out the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement.

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods and works required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. In order to assist the Borrower in carrying out Part F of the Project, the Borrower shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of the Project of the departments or agencies of the Borrower responsible for carrying out the Project or any part thereof, including the Implementing Agencies.

(b) The Borrower shall:

(i) have the records and accounts referred to in paragraph (a) of this Section including those for the Special Accounts for each fiscal year audited, 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 nine months after the end of each such year, a certified copy of 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 the audit thereof as the Association shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditure, the Borrower shall:

(i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;

(ii) retain, until at least one year after the Association has received the audit for the fiscal year in which the last withdrawal from the Credit Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;

(iii) enable the Association's representatives to examine such records; and

(iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

ARTICLE V

Remedies of the Association

Section 5.01. (a) Pursuant to Section 6.02 (h) of the General Conditions, the following additional event is specified, namely, that subject to paragraph (b) of this Section, the right of the Borrower to withdraw the proceeds of any grant made to the Borrower for the financing of the Project shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the agreement providing

therefor.

(b) Paragraph (a) of this Section shall not apply if the Borrower establishes to the satisfaction of the Association that: (i) such suspension, cancellation or termination is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and (ii) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) all conditions precedent to the effectiveness of the ODA Agreement and the UNDP Project Document (other than, if applicable, the effectiveness of this Agreement) have been fulfilled;

(b) the Project Proforma for the carrying out of the Project have been approved by the Borrower;

(c) the Borrower has included in its Annual Development Program for FY 1991 an allocation equivalent to \$2,200,000 for purposes of the Project;

(d) the Borrower has established, in a manner acceptable to the Association, one Project Coordinating Committee at the Central Government level and three Project Coordinating Committees at the Divisional levels;

(e) the Borrower has established a Coordination Cell in DOF in a manner acceptable to the Association and has appointed an officer to head the Cell at the rank of Additional Director;

(f) the Borrower has delegated financial and administrative powers equal to those of a Project Director to the Deputy Directors of Fisheries in the Dhaka, Khulna and Rajshahi Divisions or to any other officers appointed to head such divisional offices;

(g) the Borrower has appointed a Deputy Project Director in Faridpur to be responsible for activities in the old Faridpur district of the Dhaka Division; and

(h) BWDB has appointed the Executive Engineers of Khulna Operation and Maintenance Division II and Shatkhira Operation and Maintenance Division I as Project Officers responsible for the execution of the BWDB part of the coastal shrimp culture under Part B of the Project.

Section 6.02. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VII

Representatives of the Borrower; Addresses

Section 7.01. The Secretary, the Additional Secretary, or any Joint Secretary, Deputy Secretary or Assistant Secretary of the External Resources Division of the Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

External Resources Division
Ministry of Finance
Government of the People's
Republic of Bangladesh
Dhaka, Bangladesh

Cable address:

Telex:

BAHIRSAMPAD
Dhaka

642226 SETU BJ

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:

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

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.

PEOPLE'S REPUBLIC OF BANGLADESH

By /s/ A. H. S. Ataul Karim

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ A. Karaosmanoglu

Regional Vice President
Asia

SCHEDULE 1

Withdrawal of the Proceeds of the Credit

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit, the allocation of the amounts of the Credit to each Category and the percentage of expenditures for items so to be financed in each Category:

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Civil works (including construction materials, engineering and supervision)	9,800,000	80%
(2) Equipment	2,400,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 70% of local ex- penditures for other items pro- cured locally

(3) Fingerlings	11,100,000	100% on withdrawal applications received before January 1, 1995; and 80% on withdrawal applications received thereafter
(4) Incremental staff salaries and operating costs of the Implementing Agencies	4,300,000	90% on withdrawal applications received before January 1, 1993; 70% on withdrawal applications received thereafter but before January 1, 1995; and 60% on withdrawal applications received on or after January 1, 1995
(5) Consultants' services and training	2,800,000	100%
(6) Unallocated	4,200,000	
TOTAL	34,600,000	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower;

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower;

(c) the term "salaries" includes allowances; and

(d) the term "incremental staff" means all staff of the Implementing Agencies working full time on Project implementation.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) payments made for expenditures prior to the date of this Agreement; and

(b) expenditures under Category (4) until the Borrower has furnished to the Association a staffing plan for the Implementing Agencies, in respect of the Project, setting forth the funding of such staff under the Borrower's Development and Revenue budgets, acceptable to the Association.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Borrower in: (i) increasing incomes of full-time and part-time fishermen, particularly of poorer fishermen; (ii) increasing fish production for domestic consumption and export; (iii) supporting the fisheries development program in the Project Area; (iv) accelerating the expansion of fish production in flood plains in the Project Area; and (v) strengthening sectoral institutions.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

Part A:

Stocking, by DOF, of major flood plains in the Project Area with fingerlings.

Part B:

Construction, by BWDB, in about 13,000 ha of land within polders in the Project Area of improved polder embankments, sluices and foot bridges over water channels.

Part C:

Carrying out of other fisheries development activities, including studies and provision of extension services at the District and Upazila levels for fresh water shrimp promotion and other fisheries activities in ponds, lakes, rivers and minor flood plains and for assistance to under-privileged groups including women.

Part D:

Strengthening of DOF and BWDB through the financing of incremental costs for office and field equipment, vehicles, staff and operation and maintenance of Project facilities, and the carrying out of civil works for construction and rehabilitation of office and training facilities.

Part E:

Carrying out, by FRI, of research projects in areas directly related to the Project activities, including fish food, fish disease, fishing gear in flood plains, and catch and effort parameters in coastal fisheries; and construction of a field station in the Project Area.

Part F:

1. Provision of technical assistance to DOF for project management and for an independent stocking inspection service, and on-the-job, in-service and overseas training in management and fisheries related areas for DOF staff.

2. Provision of technical assistance for carrying out technical and socio-economic studies, services for organizing shrimp farmers and fishermen, technical advisory services for BWDB, DOF and FRI, and study tours.

* * *

The Project is expected to be completed by June 30, 1996.

SCHEDULE 3

Procurement and Consultants' Services

Section I. Procurement of Goods and Works

Part A: International Competitive Bidding

1. Except as provided in Part D hereof, goods and works 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 IBRD Loans and IDA Credits" published by the Bank in May 1985 (the Guidelines).

2. Bidders for fingerlings contracts included in Part A of the Project shall be prequalified as described in paragraph 2.10 of the Guidelines.

3. To the extent practicable, contracts for works and goods shall be grouped in bid packages estimated to cost more than the equivalent of \$1,000,000 and \$100,000 each, respectively.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A.1 hereof, goods manufactured in Bangladesh 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.

Part C: Preference for Domestic Contractors

In the procurement of works in accordance with the procedures described in Part A.1 hereof, the Borrower may grant a margin of preference to domestic contractors in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraph 5 of Appendix 2 thereto.

Part D: Other Procurement Procedures

1. Civil works estimated to cost the equivalent of \$1,000,000 or less per contract, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Association.
2. Goods estimated to cost the equivalent of \$100,000 or less per contract, up to an aggregate amount not to exceed the equivalent of \$500,000, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Association.
3. Items or groups of items estimated to cost less than the equivalent of \$10,000 per contract, up to an aggregate amount not to exceed the equivalent of \$100,000, may be procured under contracts awarded on the basis of comparison of price quotations solicited from a list of at least three suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Association.

Part E: Review by the Association of Procurement Decisions

1. Review of prequalification:

With respect to the prequalification of bidders as provided in Part A.2 hereof, the procedures set forth in paragraph 1 of Appendix 1 to the Guidelines shall apply.

2. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract for civil works estimated to cost more than the equivalent of \$150,000, and each contract for goods estimated to cost more than the equivalent of \$100,000, 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 a Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Association pursuant to said paragraph 2 (d) shall be furnished to the Association prior to the making of the first payment out of said Special Account in respect of such contract.

(b) 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 a 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 Association pursuant to said paragraph 3 shall be furnished to the Association as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 5 to this Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which the Association has authorized withdrawals from the Credit Account on the basis of statements of expenditure. Such contracts shall be retained in accordance with Section 4.02 (a) (ii) of this Agreement.

3. 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 Borrower in carrying out Parts B and C of the Project, the Borrower shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Association 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.

SCHEDULE 4

Implementation Program

1. In carrying out Part A of the Project, the Borrower shall:

(a) initially stock the following flood plains: Chanda beel area in the Gopalganj depression (Dhaka Division), the poldered BSKB plain in the Khulna depression (Khulna Division), and the poldered Halti beel area in the Chalan depression (Rajshahi Division); and

(b) after completion of the initial stocking, select other flood plains in accordance with criteria acceptable to the Association.

2. In carrying out Part B of the Project, the Borrower shall:

(a) ensure that the concerned population has agreed to participate in the carrying out of the works;

(b) before building sluices, ensure that relevant shrimp farmers have agreed to develop the related channels and secondary embankments; and

(c) initially carry out water infrastructure improvements in Polders 5 and 23, and thereafter carry out works in additional Polders in accordance with criteria acceptable to the Association.

3. In carrying out Part C of the Project, the Borrower shall:

(a) select the activities to be carried out in accordance with criteria acceptable to the Association; and

(b) ensure that a substantial portion of the expenditures for such Part be used for activities related to women in fisheries development.

4. In carrying out Part D of the Project, the Borrower shall furnish to the Association for approval:

(a) the plans for the construction and rehabilitation of DOF's training facilities; and

(b) the annual budget plans for the DOF headquarter units assisting in the carrying out of the Project, other than the Project Coordination Cell.

5. In carrying out Part E of the Project, the Borrower shall:

(a) furnish to the Association for approval the plans for the FRI field station; and

(b) by December 31, 1991, transfer a DOF fish seed farm in a suitable location in Rajshahi Division to FRI.

6. The Borrower shall, not later than June 30, 1991, transfer the extension staff assigned to the implementation of the Shrimp Culture Project (Credit 1651-BD) in the Khulna Division to the implementation of the Project.

7. In carrying out Part F of the Project, the Borrower shall provide adequate office space to technical assistance staff.

8. The Borrower shall:

(a) by July 1, 1992, establish an interministerial committee on divestment of public fish seed farms with a membership and terms of reference acceptable to the Association;

(b) by March 1, 1993 furnish to the Association for its comments, the recommendations arising out of such committee; and

(c) thereafter implement, in accordance with a time schedule agreed with the Association, the recommendations of said committee that the Borrower shall have approved after having taken into account the Association's comments thereon.

9. The Borrower shall, not later than October 31, 1990:

(a) staff the Coordination Cell in DOF in a manner satisfactory to the Association, including qualified staff in adequate numbers; and

(b) staff the DOF divisional offices in Dhaka, Khulna and Rajshahi in a

manner satisfactory to the Association, including qualified staff in adequate numbers.

10. The Borrower shall carry out a program designed to recover the full cost of investment and operation and maintenance of the embankments and regulators constructed or rehabilitated under Part B of the Project. To this effect, the Borrower shall:

(a) by December 31, 1990, take all measures necessary to ensure full cost recovery within a 20-year period, including enactment of related legislation;

(b) thereafter, make such biennial adjustments to the charges as shall be warranted by actual investment and operation and maintenance costs;

(c) by September 30, 1993, review the effectiveness of the measures and furnish to the Association proposals for improvements to such measures, if necessary; and

(d) by June 30, 1994 carry out the proposed improvements.

11. The Borrower shall:

(a) by September 30, 1993 prepare and furnish to the Association for comments, a draft policy paper on cost recovery of stocking in flood plains, including means of achieving at least a 20% recovery of annual public stocking costs before July 1, 1994, and at least 30% recovery before July 1, 1995; and

(b) by June 30, 1994, carry out the policy taking into account the comments of the Association.

12. The Borrower shall, by December 31, 1992, establish an Inter-Ministerial High Level Committee for Cost Recovery in Fisheries (including Shrimp Culture) with terms of reference and membership acceptable to the Association.

SCHEDULE 5

Special Accounts

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) through (5) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means in respect of each Special Account, an amount equivalent to the dollar figure specified below for each such Special Account, to be withdrawn from the Credit Account and deposited into the respective Special Account pursuant to paragraph 3 (a) of this Schedule: (i) DOF Special Account, \$1,500,000; (ii) BWDB Special Account \$800,000; and (iii) FRI Special Account \$100,000.

2. Payments out of the Special Accounts 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 Accounts have been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Accounts shall be made as follows:

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

(b) (i) For replenishment of the Special Accounts, the Borrower shall furnish to the Association requests for deposits into the Special Accounts at such intervals as the Association shall specify.

(ii) Prior to or at the time of each such request, the Borrower 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 respective Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures.

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

4. For each payment made by the Borrower out of the Special Accounts, the Borrower 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 a Special Account:

(a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower 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 allocated to the eligible Categories less the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, 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 allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. 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 Accounts 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 a 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 shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into said 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 said Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

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

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

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) and (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, including the General Conditions.

