

CONFORMED COPY

CREDIT NUMBER 2293 ZR

(SNEL Technical Assistance Project)

between

REPUBLIC OF ZAIRE

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated September 9, 1991

CREDIT NUMBER 2293 ZR

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated September 9, 1991, between the REPUBLIC OF ZAIRE (the Borrower) and the 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 Project will be carried out by the Borrower's electric power company, the Societe Nationale d'Electricite (the Company) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to the Company the proceeds of the Credit as provided in this Agreement; and

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 and in the Project Agreement of even date herewith between the Association and the Company;

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 modifications set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) the word "facsimile", preceded by a comma, is added after the word "telex" in Section 11.01; and

(b) the last sentence of Section 3.02 is deleted.

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) "Ministry" means the ministry of the Borrower responsible for energy;

(b) "Project Preparation Advance" means the two project preparation advances granted by the Association to the Borrower pursuant to two exchanges of letters, dated February 7 and May 26, 1987, and March 8 and April 17, 1989, between the Borrower and the Association;

(c) "Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and the Company pursuant to Section 3.01 (b) of this Agreement, as the same may be amended from time to time, and such term includes any schedules to the Subsidiary Loan Agreement;

(d) "the Company" means the Societe Nationale d'Electricite, the electric power company of the Borrower, a public enterprise established and operating pursuant to Ordonnance No. 78-196 of May 5, 1978 and Loi No. 78-002 of January 6, 1978; and

(e) "Project Agreement" means the agreement between the Association and the Company of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement.

#### 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 seven million five hundred thousand Special Drawing Rights (SDR 7,500,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of this Section and 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 and to be financed out of the proceeds of the Credit.

(b) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advance withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be cancelled.

Section 2.03. The Closing Date shall be June 30, 1994 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 or 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 payment 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 May 1 and November 1 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 semiannual installments payable on each May 1 and November 1 commencing November 1, 2001 and ending May 1, 2031. Each installment to and including the installment payable on May 1, 2011 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.

Section 2.09. The Company is designated as representative of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V 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, without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, shall cause the Company to carry out the Project and to perform in accordance with the provisions of the Project Agreement all the other obligations of the Company therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable the Company to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) The Borrower shall relend the proceeds of the Credit to the Company under a subsidiary loan agreement between the Borrower and the Company setting forth terms and conditions which shall have been approved by the Association and which shall include a rate of interest of 7.75%, a term of 20 years including a five years' grace period and the assumption by the Company of the exchange risk.

(c) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Credit and, except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Subsidiary Loan Agreement or any provision thereof.

Section 3.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to the Project Agreement.

Section 3.03. The Borrower and the Association hereby agree that 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) shall be carried out by the Company pursuant to Section 2.03 of the Project Agreement.

Section 3.04. The Borrower shall take all such action as shall be necessary on its part to ensure that the provisions of its Contrat-Programme with the Company be respected and that no change be made thereto without prior consultation with the Association.

Section 3.05. The Borrower shall take all necessary measures required on its part to allow the Company to reevaluate its assets and restructure its balance sheet in accordance with appropriate accounting principles acceptable to the Association.

#### ARTICLE IV

##### Remedies of the Association

Section 4.01. Pursuant to Section 6.02 (h) of the General Conditions, the following additional events are specified:

(a) the Company shall have failed to perform any of its obligations under the Project Agreement;

(b) as a result of events which have occurred after the date

of the Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that the Company will be able to perform its obligations under the Project Agreement;

(c) the Ordonnance or the Loi, cited in paragraph (d) of Section 1.02 of this Agreement, or any other legislation governing the operations of the Company, shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Company to perform any of its obligations under the Project Agreement;

(d) the Borrower or any other authority having jurisdiction shall have taken any action for the reorganization, dissolution or disestablishment of the Company or for the suspension of its operations or any substantial portion thereof; and

(e) any provision of the Contrat-Programme between the Borrower and the Company shall not have been adhered to or the Contrat-Programme shall have been amended in a manner not acceptable to the Association.

Section 4.02. Pursuant to Section 7.01 (d) of the General Conditions, the following additional events are specified:

(a) any event specified in paragraph (a) or (e) of Section 4.01 of this Agreement shall occur and shall continue for a period of 60 days after notice thereof shall have been given by the Association to the Borrower; or

(b) any event specified in paragraph (c) or (d) of Section 4.01 of this Agreement shall occur.

#### ARTICLE V

##### Effective Date; Termination

Section 5.01. The following event is specified as additional condition to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions, namely, that the Subsidiary Loan Agreement has been entered into by the Borrower and the Company.

Section 5.02. The following are specified as additional matters, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

(a) that the Project Agreement has been duly authorized or ratified by the Company and is legally binding upon the Company in accordance with its terms; and

(b) that the Subsidiary Loan Agreement has been duly authorized or ratified by the Borrower and the Company and is legally binding upon the Borrower and the Company in accordance with its terms.

Section 5.03. 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 VI

##### Representative of the Borrower; Addresses

Section 6.01. Except as provided in Section 2.09 of this Agreement, the Minister of the Borrower responsible for finance is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:



			expenditures for services of other consultants
(2)	Equipment for monitoring of dam safety and for dredging	1,200,000	100% of foreign expenditures and 80% of local expenditures
(3)	Refunding of Project Preparation Advance	530,000	Amounts due pursuant to Section 2.02 (b) of this Agreement
	Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(4)	Unallocated	710,000	
	TOTAL	7,500,000 =====	

2. To the extent that the amount allocated to Category (3) above is greater than the amount due, the excess will be reallocated to Category (4).

3. 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; and

(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.

4. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments for expenditures made prior to the date of this Agreement.

## SCHEDULE 2

### Description of the Project

The objectives of the Project are to assist the Company in rehabilitating, maintaining and assuring the safety of its hydroelectric facilities and in strengthening its management capabilities.

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: Engineering Services

1. Carrying out a study of the safety of dams, including as a priority the Nzilo dam, and the acquisition of equipment for monitoring the dam's working condition.

2. Strengthening the technical support for the operation of hydroelectric facilities and rehabilitation of the Inga hydroelectric power facilities, and the acquisition of dredging equipment for use in the Inga intake channel.

3. Supervision of the ongoing rehabilitation works at the Ruzizi I plant in Kivu and at the Nzilo and Nseke plants in Shaba.

Part B: Strengthening of Management of the Company

Completion or carrying out of studies and implementation of resulting recommendations concerning:

1. Financial and accounting systems;
2. Job grading;
3. Organization of maintenance activities;
4. Organization of stock management and recruitment of required experts;
5. Organization of commercial management and recruitment of required experts; and
6. Audit of the accounts of the Company.

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The Project is expected to be completed by December 31, 1993.

