

**CONFORMED COPY**

**CREDIT NUMBER 3600 COB**

# **Development Credit Agreement**

**(Transparency and Governance Capacity Building Project)**

**between**

**REPUBLIC OF CONGO**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated February 27, 2002**

**CREDIT NUMBER 3600 COB**

## **DEVELOPMENT CREDIT AGREEMENT**

AGREEMENT, dated February 27, 2002, between REPUBLIC OF CONGO (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; and

(B) the Association has received a letter (the Policy Letter), dated October 22, 2001, from the Borrower describing a program of actions, objectives and policies designed to strengthen transparency and good governance in the Borrower's petroleum, fiscal and privatization operations (the Program) and declaring the Borrower's commitment to the execution of the Program.

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 (as amended through October 6, 1999) (the General Conditions), constitute an integral part of this Agreement.

(a) A new paragraph (12) is added to Section 2.01 to read as set forth below, and the existing paragraphs (12) through (14) of said Section are accordingly renumbered as paragraphs (13) through (15):

"12. 'Participating Country' means any country that the Association determines meets the requirements set forth in Section 11 of Resolution No. 194 of the Board of Governors of the Association, adopted on April 8, 1999; and 'Participating Countries' means, collectively, all such countries." ; and

(b) The second sentence of Section 5.01 is modified to read:

"Except as the Borrower and the Association shall otherwise agree, no withdrawals shall be made: (a) on account of expenditures in the territories of any country which is not a Participating Country or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Association, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

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) "AGIP", "TEP-CONGO" and "NOMEKO" refer to private oil producing companies operating in the territory of, and under the laws of, the Borrower and with whom the Borrower has entered into production sharing agreements in the case of AGIP and TEP-

CONGO, and a concession agreement in the case of NOMECCO;

(b) “CCA” means *Caisse Congolaise d’Amortissement*, the Ministry of Finance, Economy and Budget Agency in charge of the administration of the public debt and state investments;

(c) “CDC” means *Cour des Comptes*, the Borrower’s supreme independent audit institution, established pursuant to Law No. 22/92 of August 20, 1992, as amended by Law No. 19/99 dated August 15, 1999;

(d) “CFE” and *Centre de Formalités des Entreprises*, means the Enterprise Reception Center of the Borrower, an autonomous agency operating under the tutelage of the MCPME (hereinafter defined), established pursuant to Decree No. 95-193 dated Oct. 18, 1995;

(e) “COGEPACO” means *Confédération Générale du Patronat Congolais*;

(f) “CP” means the Borrower’s Committee of Privatization, established pursuant to *Loi Cadre* No. 81/94 dated August 10, 1994;

(g) “DCMCE” means *Direction Centrale des Marchés et des Contrats de l’Etat*, the Borrower’s National Tender Board established pursuant to Decree No 82/329 dated April 22, 1982;

(h) “Eligible Categories” means categories (1), (2) and (3) set forth in the table in Part A.1 of Schedule 1 to this Agreement;

(i) “Eligible Expenditures” means the expenditures for goods and services referred to in Section 2.02 (a) of this Agreement;

(j) “Executing Agencies” means collectively, relevant government agencies and government ministries involved with Project implementation as set forth in the PIM (as hereinafter defined), including the MoEFB, CP, CFE, MoHe and MoHy (as hereinafter defined);

(k) “FCFA” means *Francs de la Coopération Financière en Afrique*, the currency of the Borrower;

(l) “Fiscal Year” means the fiscal year of the Borrower commencing January 1 and ending December 31 in the same year;

(m) “HIV/AIDS” means Human Immuno-Deficiency Virus/Acquired Immune Deficiency Syndrome;

(n) “IRIC” means the Inter-ministerial Reform Implementation Committee to be created by the Borrower operating under MoEFB (as hereinafter defined), and referred to in Section 5.01 of this Agreement;

(o) “MAT” means the Borrower’s Ministry in charge of Territorial Management;

(p) “MCPME” and “*Ministère du Commerce et Promotion des Petites et Moyennes Entreprises*” means the Borrower’s Ministry in charge of commerce and small and medium

enterprises;

(q) “MDISP” means the Borrower’s Ministry in charge of Industrial Development and Private Sector Promotion;

(r) “MoEFB” means the Borrower’s Ministry in charge of Economy, Finance and Budget;

(s) “MoHe” means the Borrower’s Ministry in charge of Health;

(t) “MoHy” means the Borrower’s Ministry in charge of Hydrocarbons;

(u) “MoL” means the Borrower’s Ministry in charge of Labor;

(v) “NGO” means a non-governmental organization established and operating pursuant to the laws of the Borrower;

(w) “PCU” means the Project Coordination Unit referred to in paragraph 2 of Part 1 of Schedule 4 to this Agreement;

(x) “PIM” means the Project Implementation Manual (*Manuel de Procédure du Projet*) referred to in Section 7.01 (a) of this Agreement setting forth, *inter alia*, the administrative, financial and accounting procedures, the procurement and disbursement procedures and arrangements to be used for the implementation of the Project, as the same may be amended from time to time with the Association’s prior written consent, and such term to include any schedules, tables and annexes to the PIM. For purposes of this Agreement, it is understood that the PIP (as hereinafter defined) shall be deemed to be a schedule to the PIM and an integral part thereof;

(y) “PIP” means the Project Implementation Plan containing, *inter alia*, the planning of activities, their costs and time tables, and the procurement methods used;

(z) “PITCC” means the Project Inter-Agency Technical Coordination Committee of the Borrower referred to in Section 5.02 of this Agreement;

(aa) “PNLS” means *Programme National de Lutte contre le Sida*, the Borrower’s national program against HIV/AIDS within MoHe, created pursuant to *Arrêté* No. 6480/MSAS/CAB;

(bb) “Private Sector Entities” means organizations representing, *inter alia*, employers, labor unions, *chambres de commerce*, and the COGEPACO;

(cc) “Project Management Report” and “PMR” mean each report prepared in accordance with Section 4.02 of this Agreement;

(dd) “Project Preparation Advance” means the Project preparation advance granted by the Association to the Borrower pursuant to the Letter Agreement signed on behalf of the

Association and the Borrower on December 11, 2001;

(ee) "Special Account" means the account referred to in Part B of Schedule 1 to this Agreement; and

(ff) "SNPC" means *Société Nationale des Pétroles du Congo*, the Borrower's National Petroleum Company, established pursuant to Law No. 1/98 dated April 23, 1998.

## 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 five million six hundred thousand Special Drawing Rights (SDR 5,600,000).

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 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 canceled.

Section 2.03. The Closing Date shall be December 31, 2007 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 canceled; 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 February 1 and August 1 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each February 1 and August 1 commencing February 1, 2012 and ending August 1, 2041. Each installment to and including the installment payable on August 1, 2021 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 per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; 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 repayment of installments under paragraph (a) above by:

- (A) 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; and
- (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum of five years on such repayment of principal.

(c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above 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.

(d) 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 French Republic 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 or cause it to be carried out with due diligence and efficiency and in conformity with appropriate administrative, financial, governance and public health 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 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 3 to this Agreement.

Section 3.03. For the purposes of Section 9.06 (c) of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan to ensure the continuous objectives of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with the Borrower on said plan.

## **ARTICLE IV**

### **Financial Covenants**

Section 4.01. (a) The Borrower shall maintain a financial management system, including records and accounts, and prepare financial statements in a format acceptable to the Association, adequate to reflect the operations, resources and expenditures related to the Project.

(b) The Borrower shall:

(i) have the records, accounts and financial statements referred to in paragraph (a) of this Section and the records and accounts for the Special Account for each fiscal year audited, in accordance with auditing standards acceptable to the Association, 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 the financial statements referred to in paragraph (a) of this Section for such year as so audited, and (B) an opinion on such statements, records and accounts and 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 such records and accounts, and the audit thereof, and concerning said auditors, as the Association may 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 separate accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Association has received the audit report 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.

Section 4.02. (a) Without limitation upon the provisions of Section 4.01 of this Agreement, the Borrower shall carry out a time-bound action plan acceptable to the Association for the strengthening of the financial management system referred to in paragraph (a) of said Section 4.01 in order to enable the Borrower, not later than 18 months, or such later date as the Association shall agree, to prepare quarterly Project Management Reports, acceptable to the Association, each of which:

- (i) (A) sets forth actual sources and applications of funds for the Project, both cumulatively and for the period covered by said report, and projected sources and applications of funds for the Project for the six-month period following the period covered by said report, and (B) shows separately expenditures financed out of the proceeds of the Credit during the period covered by said report and expenditures proposed to be financed out of the proceeds of the Credit during the six-month period following the period covered by said report;
- (ii) (A) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and (B) explains variances between the actual and previously forecast implementation



targets; and

- (iii) sets forth the status of procurement under the Project and expenditures under contracts financed out of the proceeds of the Credit, as at the end of the period covered by said report.

(b) Upon the completion of the action plan referred to in paragraph (a) of this Section, the Borrower shall prepare, in accordance with guidelines acceptable to the Association, and furnish to the Association not later than 45 days after the end of each calendar quarter a Project Management Report for such period.

## **ARTICLE V**

### **Other Covenants**

Section 5.01. The Borrower shall, by August 31, 2002, set up IRIC with functions, staffing and resources satisfactory to the Association.

Section 5.02. The Borrower shall, by September 30, 2002, set up PITCC with functions, staffing and resources satisfactory to the Association.

Section 5.03 The Borrower shall, by November 30, 2002, employ the independent auditors referred to in Section 4.01 (b) of this Agreement in accordance with the provisions of Section II of Schedule 3 to this Agreement.

## **ARTICLE VI**

### **Remedies of the Association**

Section 6.01. Pursuant to Section 6.02 (1) of the General Conditions, the following additional event is specified, namely, that a situation shall have arisen which shall make it improbable that the Program or a significant part thereof shall be carried out.

## **ARTICLE VII**

### **Effective Date; Termination**

Section 7.01. 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) the Borrower has adopted the Project Implementation Manual in form and substance acceptable to the Association;
- (b) the Borrower has established a financial management system within PCU for the purposes of the Project, in form and substance acceptable to the Association; and

(c) the Borrower has prepared a procurement plan for the first year of Project implementation, satisfactory to the Association.

Section 7.02. The date one hundred eighty (180) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

## ARTICLE VIII

### Representative of the Borrower; Addresses

Section 8.01. The Minister in charge of finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Minister of Economy, Finance and Budget  
Ministry of Economy, Finance and Budget  
B.P. 2083  
Brazzaville  
Republic of Congo

Facsimile:  
242-814145

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 (MCI) or  
64145 (MCI)

Facsimile:

(202) 477-6391

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.

REPUBLIC OF CONGO

By /s/ Serge Mombouli

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Callisto Madavo

Regional Vice President  
Africa

**SCHEDULE 1**

**Withdrawal of the Proceeds of the Credit**

A. General

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:

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Goods	440,000	100% of foreign expenditures and 80% of local expenditures
(2) Consultants' services, training and workshops	3,580,000	100%
(3) Operating Costs	440,000	100% of foreign expenditures and

		80% of local expenditures
(4)	Refunding of Project Preparation Advance	560,000
		Amount due pursuant to Section 2.02 (b) of this Agreement
(5)	Unallocated	580,000
	TOTAL	5,600,000

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; provided, however, that, if the currency of the Borrower is also that of another country from the territory of which goods or services are supplied, expenditures in such currency for such goods or services shall be deemed to be “foreign expenditures”; and

(c) the term “operating costs” means the incremental operating costs arising under the Project on account of audits, maintenance of vehicles, fuel, equipment, office supplies, utilities, consumables, travel per diems and allowances, travel accommodation, office rental and Project support staff recruited to work in the PCU, but excluding salaries of Borrower’s civil service.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR 50,000, may be made in respect of Categories (1) through (3) on account of payments made for expenditures before that date but after June 1, 2001.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures for: (a) goods under contracts costing less than \$100,000 equivalent each; (b) services under contracts costing less than \$100,000 equivalent each for consulting firms, less than \$50,000 for individual consultants, and studies, workshops and training, all under such terms and conditions as the Association shall specify by notice to the Borrower.

**B. Special Account**

1. The Borrower shall open and maintain in FCFA a special deposit account in a commercial bank, on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure and attachment.

2. After the Association has received evidence satisfactory to it that a Special Account has been opened, withdrawals from the Credit Account of amounts to be deposited into the Special

Account shall be made as follows:

(a) until the Association shall have received: (i) the first Project Management Report referred to in Section 4.02 (b) of this Agreement, and (ii) a request from the Borrower for withdrawal on the basis of Project Management Reports, withdrawals shall be made in accordance with the provisions of Annex A to this Schedule 1; and

(b) upon receipt by the Association of a Project Management Report pursuant to Section 4.02 (b) of this Agreement, accompanied by a request from the Borrower for withdrawal on the basis of Project Management Reports, all further withdrawals shall be made in accordance with the provisions of Annex B to this Schedule 1.

3. Payments out of the Special Account shall be made exclusively for Eligible Expenditures. For each payment made by the Borrower out of the Special Account, 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.

4. Notwithstanding the provisions of Part B.2 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

(a) if the Association determines at any time that any Project Management Report does not adequately provide the information required pursuant to Section 4.02 of this Agreement;

(b) if the Association determines at any time that all further withdrawals should be made by the Borrower directly from the Credit Account; or

(c) if the Borrower shall have failed to furnish to the Association within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of: (i) the records and accounts for the Special Account, or (ii) the records and accounts reflecting expenditures with respect to which withdrawals were made on the basis of Project Management Reports.

5. The Association shall not be required to make further deposits into the Special Account in accordance with the provisions of Part B.2 of this Schedule if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account pursuant to Section 6.02 of the General Conditions. Upon such notification, the Association shall determine, in its sole discretion, whether further deposits into the Special Account may be made and what procedures should be followed for making such deposits, and shall notify the Borrower of its determination.

6. (a) If the Association determines at any time that any payment out of the Special Account was made for an expenditure which is not an Eligible Expenditure, or was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association, provide such additional evidence as the Association may request, or 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. 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 made such deposit or refund, as the case may be.

(b) If the Association determines at any time that any amount outstanding in the Special Account will not be required to cover payments for Eligible Expenditures during the six-month period following such determination, 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 Account.

(d) Refunds to the Association made pursuant to sub-paragraph (a), (b) or (c) of this paragraph 6 shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the provisions of the Development Credit Agreement.

## **Annex A**

**to**

### **SCHEDULE 1**

#### **Operation of Special Account When Withdrawals Are Not Made On the Basis of Project Management Reports**

1. For the purposes of this Annex, the term “Authorized Allocation” means an amount equivalent to FCFA 500,000,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 2 of this Annex; provided, however, that, unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to FCFA 250,000,000 until the aggregate amount of withdrawals from the Credit Account, plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions shall equal or exceed the equivalent of SDR 3,000,000.

2. Withdrawals of the Special Account’s Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Special Account’s Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the Special Account of an amount or amounts which in the aggregate do not exceed the Authorized Allocation. 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 the Borrower shall have requested.

(b) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposit into the Special Account at such intervals as the Association shall specify. 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 Part B.3 of Schedule 1 to this Agreement 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 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. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account under one or more of the Special Account's Eligible Categories.

3. The Association shall not be required to make further deposits into the Special Account, once the total unwithdrawn amount of the Credit minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions, shall equal the equivalent of twice the amount of the Special Account's 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. 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.

**Annex B**  
**to**  
**SCHEDULE 1**

**Operation of Special Account**  
**When Withdrawals Are Made**  
**On the Basis of Project Management Reports**

1. Except as the Association may otherwise specify by notice to the Borrower, all withdrawals from the Credit Account shall be deposited by the Association into the Special Account in accordance with the provisions of Schedule 1 to this Agreement. Each such deposit into the Special Account shall be withdrawn by the Association from the Credit Account under one or more of the Special Account's Eligible Categories.

2. Each application for withdrawal from the Credit Account for deposit into the Special Account shall be supported by a Project Management Report.

3. Upon receipt of each application for withdrawal of an amount of the Credit, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account an amount equal to the lesser of: (a) the amount so requested; and (b) the amount which the Association has determined, based on the Project Management Report accompanying said application, is required to be deposited in order to finance Eligible Expenditures during the six-month period following the date of such report; provided, however, that the amount so deposited, when added to the amount indicated by said Project Management Report to be remaining in the Special Account, shall not exceed the equivalent of FCFA 500,000,000.

**SCHEDULE 2**

**Description of the Project**

The objective of the Project is to assist the Borrower in improving transparency and good

governance in selected public sector activities within its territory.

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: Petroleum Sector Management

Strengthening the financial, legal and technical environment of the Petroleum sector through:

1. carrying out of financial and operational audits of SNPC, AGIP, TEP-CONGO and NOMECO, by providing technical advisory services;
2. completing the establishment of a legal and regulatory framework for the petroleum sector, by providing technical and legal advisory services;
3. carrying out of a comprehensive diagnostic study aimed at assessing the current financial, operational, technical, legal, procurement and contractual arrangements of the petroleum sector with a view to designing a comprehensive reform program, by providing technical and legal advisory services; and
4. implementing the reform program made under Part A (3) above, by providing technical advisory services and training to staff of MoHy and SNPC.

Part B: Public Sector Management

Strengthening transparency, accountability, good economic governance and financial management capacity in MoEFB through:

1. Reviewing and strengthening the organization and procedures for strategic planning and economic management, public expenditures and accounting, budget preparation and implementation, internal audit procedures and controls, fiscal and customs controls, procurement of public goods and services and communication channels within MoEFB, through the provision of technical advisory services and training to staff, and the acquisition of equipment; and
2. Strengthening the capacities of MoEFB, DMCE, CDC and CCA on matters relating to public finance, taxation, public accounting and statistics through the provision of technical advisory services and training to staff, and the acquisition of equipment.

Part C: Private Sector Development

Providing support to the Borrower's privatization process and assisting in the promotion of local and foreign investments through:

1. strengthening the capacity and institutional framework of CP and creation of a regulatory agency to regulate and monitor the delivery of services by newly privatized public utilities through the provision of technical advisory services including training of staff;
2. carrying out of a diagnostic study on the existing institutional and administrative



arrangements aimed at attracting foreign and local direct investment so as to strengthen the Borrowers policies, programs and institutions through the provision of technical advisory services; and

3. strengthening the partnership between the Borrower, in particular MoEFB, MoL, MAT, MDISP and MCPME, and civil society through, *inter alia*: (a) preparing and organizing seminars for staff of the Ministries heretofore indicated, selected staff of NGOs and Private Sector Entities; (b) carrying out of studies on micro-enterprises; and (c) setting up of small consultative fora, all through the provision of technical advisory services and the acquisition of equipment for the staff of the Ministries heretofore indicated in the partnership.

Part D: HIV/AIDS National Action Plan Preparation

Assisting the Borrower to prepare a national action plan for the fight against the HIV/AIDS epidemic through the provision of technical advisory services to the staff of MoHe and PNLs.

\* \* \*

The Project is expected to be completed by June 30, 2007.

**SCHEDULE 3**

**Procurement**

Section I. Procurement of Goods

Part A: General

1. Goods shall be procured in accordance with: (a) the provisions of Section I of the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines); and (b) the provisions of the following Parts of this Section I.

2. In paragraphs 1.6 and 1.8 of the Guidelines, the references to “Bank member countries” and “member country” shall be deemed to be references, respectively, to “Participating Countries” and “Participating Country”.

Part B: International Competitive Bidding

1. Goods shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The following provisions shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(a) Grouping of contracts

To the extent practicable, contracts for goods shall be grouped in bid packages estimated

to cost \$100,000 equivalent or more each.

(b) Preference for domestically manufactured goods and domestic contractors

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower.

Part C: Other Procurement Procedures

1. National Competitive Bidding

Goods estimated to cost less than \$100,000 equivalent per contract, up to an aggregate amount not to exceed \$200,000 equivalent, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. International or National Shopping

Goods estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$200,000 equivalent, may be procured under contracts awarded on the basis of international or national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

Part D: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for goods estimated to cost the equivalent of \$100,000 or more, the first three contracts of less than \$100,000 under national competitive bidding, the first three contracts of less than \$25,000 under national or international shopping, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

Part A: General

1. Consultants' services shall be procured in accordance with: (a) the provisions of

the Introduction and Section IV of the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Association in January 1997 and revised in September 1997 and January 1999, subject to the modifications thereto set forth in paragraph 2 of this Part A (the Consultant Guidelines); and (b) the provisions of the following Parts of this Section II.

2. In paragraph 1.10 of the Consultant Guidelines, the references to “Bank member countries” and “member country” shall be deemed to be references, respectively, to “Participating Countries” and “Participating Country”.

#### Part B: Quality- and Cost-based Selection

1. Except as otherwise provided in Part C of this Section, consultants’ services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, paragraph 3 of Appendix 1 thereto, Appendix 2 thereto, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. The following provisions shall apply to consultants’ services to be procured under contracts awarded in accordance with the provisions of the preceding paragraph. The short list of consultants for auditing services pertaining to the financial audit of the Project estimated to cost less than \$100,000 equivalent per contract, may comprise entirely national consultants in accordance with the provisions of paragraph 2.7 of the Consultant Guidelines.

#### Part C: Other Procedures for the Selection of Consultants

##### 1. Least-cost Selection

Services for audits pertaining to the financial audit of the Project and other services of a standard nature estimated to cost less than \$100,000 equivalent per contract up to an aggregate amount of \$200,000 may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

##### 2. Selection Based on Consultants’ Qualifications

Services for small assignments estimated to cost less than \$50,000 equivalent per contract and up to an aggregate amount of \$200,000 equivalent may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

##### 3. Individual Consultants

Services for lectures and small studies shall be procured under contracts awarded to individual consultants under contracts estimated to cost less than \$10,000 and up to an aggregated amount of \$200,000, may be awarded in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines.

#### Part D: Review by the Association of the Selection of Consultants

1. Selection Planning

Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$50,000 or more, but less than the equivalent of \$100,000, the procedures set forth in paragraphs 1, 2 (other than the second subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(c) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

## **SCHEDULE 4**

### **Implementation Program**

Part 1: General Institutional Structure

1. IRIC

For the purpose of coordination and general oversight of the Project, the Borrower shall establish and maintain IRIC in a form and with functions, staffing and resources satisfactory to the Association, until the completion of the Project. IRIC shall be chaired by the Director of Cabinet of MoEFB or his substitute, and will be composed of all the General Directors and Directors of the Executing Agencies who shall report directly to the Director of Cabinet. IRIC shall, *inter alia*: (a) facilitate working relations amongst all the Executing Agencies and private sector agencies concerned with Project implementation; (b) review the progress made or being made towards achieving the Project's objectives; (c) approve all decisions regarding the selection

of tasks, the awarding of contracts and the selection of consultants; and (d) organize regular operational meetings.

2. PCU

(a) The Borrower shall maintain a PCU under the supervision of IRIC in a form and with functions, staffing and resources satisfactory to the Association until the completion of the Project. PCU shall consist of a number of key staff, appointed in accordance with the provisions of Section II of Schedule 3 to this Agreement, including a Project Coordinator, a Finance Director, a Procurement Specialist and an Accountant. PCU shall be responsible for, in particular, the implementation of Part C.3 of the Project, and in general: (i) the management of Project funds; (ii) installation and maintenance of sound financial and accounting procedures; (iii) procurement activities; (iv) reporting to the Borrower and the Association; (v) organizing quarterly reviews of the Project and reporting to IRIC; and (vi) ensuring coordination of all training activities.

(b) The Borrower shall maintain or cause to be maintained within PCU a Financial Management Section in a form and with functions, staffing and resources satisfactory to the Association. The FMS will be headed by a Finance Director and will be responsible in accordance with the PIM, for the financial management of the Project including the preparation and production of the annual financial statements and ensuring that the financial management system for the Project is acceptable to the Association.

3. PITCC

The Borrower shall establish and maintain PITCC in a form and with functions, staffing and resources satisfactory to the Association which shall be responsible for the establishment, implementation and coordination of an independent monitoring and evaluation system for the Project. PITCC will be located within MoEFB and will be composed of representatives of all the executing agencies, representatives of civil society and the private sector agencies concerned with Project Implementation. PITCC will provide quarterly reports and feedback on progress of Project activities to IRIC and PCU.

4. MoHy

The Borrower shall maintain MoHy in a form and with functions acceptable to the Association until the completion of Part A of the Project. MoHy will be responsible for supervising and implementing the activities under Part A of the Project in accordance with the PIM and will submit, through his *Directeur Général des Hydrocarbures*, quarterly reports to IRIC and PCU.

5. MoEFB

The Borrower shall maintain MoEFB in a form and with functions acceptable to the Association until the completion of the Project. MoEFB will be responsible for supervising and implementing the activities under Part B of the Project in accordance with the PIM and will

submit, through his *Directeur de l'Ajustement et de Programme*, quarterly reports to IRIC and PCU.

6. CP

The Borrower shall maintain CP in a form and with functions acceptable to the Association until the completion of the Project. CP will be responsible for supervising and implementing the activities under Part C.1 of the Project, in accordance with the PIM, and will submit quarterly reports to IRIC and PCU.

7. CFE

The Borrower shall maintain CFE in a form and with functions acceptable to the Association until the completion of the Project. CFE will be responsible for supervising and implementing the activities under Part C.2 of the Project in accordance with the PIM and will submit quarterly reports to IRIC and PCU.

8. PNLS

The Borrower shall maintain the PNLS in a form and with functions acceptable to the Association until the completion of the Project. PNLS will be responsible for supervising and implementing the activities under Part D of the Project in accordance with the PIM and will submit quarterly reports to IRIC and PCU.

Part 2: Project Implementation Manual, Reports and Reviews

1. Except as the Association shall otherwise agree, the Borrower shall: (a) apply the criteria, policies, procedures and arrangements set out in the Project Implementation Manual; and (b) not amend or waive, or permit to be amended or waived, the PIM or any provision thereof, in a manner which, in the opinion of the Association, may materially and adversely affect the implementation of the Project.

2. Prior to the preparation of Project Management Reports pursuant to Section 4.02 (b) of this Agreement, the Borrower shall submit to the Association for its review, quarterly progress reports on the status of the Project.

3. The Borrower shall:

(a) maintain or cause to be maintained policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Association, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare through PCU, under terms of reference satisfactory to the Association, and furnish to the Association, no later than January 31 and July 31 of each year, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure

the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with IRIC and the Association, not later than 4 weeks after the submission of the report referred to in paragraph b of this Section, or such later date as the Association shall request, the report referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and IRIC's and the Association's views.

4. The Borrower shall on or about twenty-four months after the Effective Date, carry out jointly with the Association, PCU and IRIC a Midterm review of the progress made in carrying out the Project (hereinafter referred to as the Midterm Review). The Borrower shall invite the Private Sector Entities to attend this Midterm Review.

(a) The Midterm Review shall cover, amongst other things:

- (i) progress made in meeting the Project's objectives;
- (ii) results of the monitoring and evaluation activities under the Project; and
- (iii) overall Project performance against Project performance indicators.

(b) The Borrower shall, at least four weeks prior to the Midterm Review, furnish to the Association a separate report describing the status of implementation of each component of the Project and a summary report of Project implementation generally.

(c) The Borrower shall, not later than four weeks after the Midterm Review, prepare an action program, acceptable to the Association, for the further implementation of the Project having regard to the findings of the Midterm Review and, thereafter, implement such action program.

