

OFFICIAL  
DOCUMENTS

LOAN NUMBER 2151 ZA

# Loan Agreement

(INDENI Refinery Modification Engineering Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

and

ZAMBIA INDUSTRIAL AND MINING CORPORATION LIMITED

Dated

June 14

, 1982

**LOAN AGREEMENT**

AGREEMENT, dated *June 14*, 1982, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and ZAMBIA INDUSTRIAL AND MINING CORPORATION LIMITED (hereinafter called the Borrower).

WHEREAS (A) the Borrower has requested the Bank to assist in the financing of the foreign exchange cost of the Project described in Schedule 2 to this Agreement by making the Loan as hereinafter provided;

(B) by exchange of letters between the Borrower and INDENI Petroleum Refinery Company Limited, dated April 20, 1982 and April 22, 1982, respectively, INDENI Petroleum Refinery Company Limited has agreed to perform such actions as may be necessary or appropriate to enable the Borrower to perform its obligations under this Agreement; and

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to make the Loan to the Borrower upon the terms and conditions set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

**ARTICLE I**

**General Conditions; Definitions**

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated October 27, 1980, with the same force and effect as if they were fully set forth herein (said General Conditions Applicable to Loan and Guarantee Agreements of the Bank being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Agreement, 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 term "INDENI" means INDENI Petroleum Refinery Company Limited, an Associate Company of the Borrower owned jointly by the Borrower and AGIP and operating pursuant to the Companies Act of the Laws of the Republic of Zambia.

## ARTICLE II

### The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies equivalent to five million one hundred thousand dollars (\$5,100,000).

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and the Bank, for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of services required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Loan.

Section 2.03. The Closing Date shall be September 30, 1984 or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower and the Guarantor of such later date.

Section 2.04. Not later than the Effective Date, the Borrower shall pay to the Bank a fee equivalent to seventy-five thousand three hundred sixty-nine dollars (\$75,369). The fee shall be payable in such currency or currencies as the Bank shall specify. In the event that the Bank shall not have received full payment of the fee by the Effective Date, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amount required for the full payment of the fee in the currency or currencies specified for the purpose.

Section 2.05. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ( $3/4$  of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.06. The Borrower shall pay interest at the rate of eleven and three-fifths per cent ( $11-3/5\%$ ) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

Section 2.07. Interest and other charges shall be payable semiannually on April 1 and October 1 in each year.

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Section 2.08. The Borrower shall repay the principal amount of the Loan in accordance with the Amortization Schedule set forth in Schedule 3 to this Agreement.

### ARTICLE III

#### Execution of the Project

Section 3.01. The Borrower shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and managerial practices.

Section 3.02. (a) The Borrower shall establish a Project Unit to be responsible for the overall implementation of the Project, headed by the Executive Director, Transport and Energy (ZIMCO) and Chairman of INDENI and supported by qualified and experienced staff in sufficient numbers including, but not limited to, two refinery process engineers, two economists, a financial analyst, a coal expert and an energy specialist.

(b) In order to assist the Borrower in carrying out the Project, the Borrower shall employ specialized engineering consultants whose selection, qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank in accordance with the principles and procedures described in 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.

(c) The Borrower shall cooperate fully with the consultants referred to in (a) above in the performance of their services and make available to them all information pertaining to the Project.

Section 3.03. The Borrower shall cause the consultant services financed out of the proceeds of the Loan to be used exclusively for the purposes of the Project.

Section 3.04. (a) The Borrower shall furnish to the Bank, promptly upon their preparation, the plans, specifications, reports, drafts, work schedules and estimates of costs for the Project, and any material modifications thereof or additions thereto, in such detail as the Bank shall reasonably request.

(b) With respect to the review and implementation of the recommendations and other conclusions contained in the documents referred to in the preceding paragraph:

- (i) during the carrying out of the Project, the Borrower and the Bank shall exchange views from time to time on said recommendations and conclusions; and
- (ii) upon completion of Part 1 of the Project, the Borrower shall consult with the Guarantor and the Bank on the recommendations and conclusions relating thereto and shall exchange views with the Guarantor and the Bank on the refinery modification option recommended as the optimum option for the purpose.

(c) The Borrower: (i) shall maintain records and procedures adequate to record and monitor the progress of the Project (including its cost and the benefits to be derived from it), to identify the services financed out of the proceeds of the Loan, and to disclose their use in the Project; (ii) shall enable the Bank's representatives to visit the facilities and sites where the services included in the Project are being carried out and to examine any relevant records and documents; and (iii) shall furnish to the Bank at regular intervals all such information as the Bank shall reasonably request concerning the Project, its cost and, where appropriate, the benefits to be derived from it, the expenditure of the proceeds of the Loan and the services financed out of the proceeds.

(d) Upon the award by the Borrower of any contract for services to be financed out of the proceeds of the Loan, the Bank may publish a description thereof, the name and nationality of the party to whom the contract was awarded and the contract price.

(e) The Borrower shall enable the Bank's representatives to examine all plants, installations, sites, works, buildings, property and equipment of the Borrower and any relevant records and documents.

(f) Promptly after completion of the Project, but in any event not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Borrower

and the Bank, the Borrower shall prepare and furnish to the Bank a report, of such scope and in such detail as the Bank shall reasonably request, on the execution of the Project, its cost and the benefits derived and to be derived from it, the performance by the Borrower and the Bank of their respective obligations under the Loan Agreement and the accomplishment of the purposes of the Loan.

#### **ARTICLE IV**

##### **Management and Operations of the Borrower**

Section 4.01. The Borrower shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, and engineering practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 4.02. The Borrower shall at all times operate and maintain its plants, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound managerial, financial and engineering practices.

Section 4.03. The Borrower shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

#### **ARTICLE V**

##### **Financial Covenants**

Section 5.01. (a) The Borrower shall maintain records adequate to reflect in accordance with consistently maintained appropriate accounting practices its operations and financial condition, including, without limitation to the foregoing, separate accounts reflecting all expenditures on account of which withdrawals are requested from the Loan Account on the basis of statements of expenditure.

(b) The Borrower shall retain, until one year after the Closing Date, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing the expenditures on account of which withdrawals are requested from the Loan Account



on the basis of statements of expenditure, and shall enable the Bank's representatives to examine such records.

Section 5.02. The Borrower shall:

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

(b) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year: (i) certified copies of its financial statements for such year as so audited; (ii) the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested, including, without limitation to the foregoing, separate opinions by said auditors: (A) on the separate accounts referred to in Section 5.01 (a) of this Agreement; and (B) in respect of the expenditures and records referred to in Section 5.01 (b) of this Agreement, as to whether the proceeds of the Loan made available to it and withdrawn from the Loan Account on the basis of statements of expenditure have been used for the purpose for which they were provided; and

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

Section 5.03. (a) The Borrower represents that at the date of this Agreement no lien exists on any of its assets as security for any debt except as otherwise currently reported to the Bank or stated in writing.

(b) The Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower as security for any debt, such lien will, ipso facto, equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan, and in the creation of any such lien express provisions will be made to that effect, at no cost to the Bank: (i) if the Borrower shall create any lien on any of its assets as security for any debt, such lien will equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan, and in the creation

of any such lien express provision will be made to that effect, at no cost to the Bank; and (ii) if any statutory lien shall be created on any assets of the Borrower as security for any debt, the Borrower shall grant, at no cost to the Bank, an equivalent lien satisfactory to the Bank to secure the payment of the principal of, and interest and other charges on, the Loan; provided, however, that the foregoing provisions of this paragraph shall not apply to: (A) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or (B) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after the date on which it is originally incurred.

#### **ARTICLE VI**

##### **Remedies of the Bank**

Section 6.01. For the purposes of Section 6.02 of the General Conditions, the following additional event is specified pursuant to paragraph (k) thereof, namely, that the Company's Act Cap. 686 of the Laws of the Republic of Zambia shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Borrower to perform any of its obligations under this Agreement.

Section 6.02. For the purposes of Section 7.01 of the General Conditions, the following additional event is specified pursuant to paragraph (h) thereof, namely, that the event specified in Section 6.01 of this Agreement shall occur.

#### **ARTICLE VII**

##### **Termination**

Section 7.01. The date *September 14, 1982*, is hereby specified for the purpose of Section 12.04 of the General Conditions.

#### **ARTICLE VIII**

##### **Addresses**

Section 8.01. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Bank:

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

Cable address:

INTBAFRAD  
Washington, D.C.

Telex:

440098 (ITT)  
248423 (RCA) or  
64145 (WUI)

For the Borrower:

Zambia Industrial and  
Mining Corporation Limited  
ZIMCO House  
Box 30090  
Lusaka, Zambia

Cable address:

ZIMCO

Telex:

40790

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

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By */s/ Jochen Kweske*  
*Acting* Regional Vice President  
Eastern Africa

ZAMBIA INDUSTRIAL AND MINING  
CORPORATION LIMITED

By */s/ Putelelo Muketori Ngonda*  
Authorized Representative

**SCHEDULE 1**

**Withdrawal of the Proceeds of the Loan**

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each Category:

<u>Category</u>	<u>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</u>
(1) Consultants' services for Part 1 of the Project	725,000
(2) Consultants' services for Part 2 of the Project	3,292,000
(3) Operating costs of the Project	60,000
(4) Fee	75,369
(5) Unallocated	947,631
	<hr/>
	TOTAL <u>5,100,000</u>

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

(a) expenditures in the currency of the Borrower or for services supplied from the territory of the Borrower;

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

(c) payments for taxes levied by, or in the territory of, the Borrower on services, or on the importation, procurement or supply thereof.

3. No withdrawals shall be made and no commitments shall be entered into for expenditures under Category 2 above until the

Bank shall have determined in consultation with the Guarantor, Borrower, and INDENI and on the basis of the studies carried out under Part 1 of the Project and such other considerations as shall be deemed relevant, that the selected option for modification of INDENI Petroleum Refinery is the optimum option thereof.

4. Notwithstanding the allocation of an amount of the Loan set forth in the second column of the table in paragraph 1 above, if the Bank has reasonably estimated that the amount of the Loan then allocated to any Category will be insufficient to finance all expenditures in that Category, the Bank may, by notice to the Borrower, reallocate to such Category, to the extent required to meet the estimated shortfall, proceeds of the Loan which are then allocated to another Category and which in the opinion of the Bank are not needed to meet other expenditures.

5. If the Bank shall have reasonably determined that the procurement of any item in any Category is inconsistent with the procedures set forth or referred to in this Agreement, no expenditures for such item shall be financed out of the proceeds of the Loan and the Bank may, without in any way restricting or limiting any other right, power or remedy of the Bank under the Loan Agreement, by notice to the Borrower, cancel such amount of the Loan as, in the Bank's reasonable opinion, represents the amount of such expenditures which would otherwise have been eligible for financing out of the proceeds of the Loan.

## SCHEDULE 2

### Description of the Project

The Project consists of a study to initially examine alternative options for modification of INDENI's petroleum refinery and to prepare a detailed feasibility study and basic engineering on the optimum option so selected and is comprised of the following main components:

Part 1. Phase I. Detailed Techno-Economic Study to:

- (a) establish Zambia's petroleum fuel requirements to the year 2000;
- (b) determine the export potential of refined petroleum fuels to neighboring countries;
- (c) determine an appropriate pricing structure for refined petroleum products;
- (d) identify all options for the modification of INDENI's petroleum refinery and determine the extent to which the existing refinery facilities could be modified to meet the petroleum fuel projections identified in (a) and (b) above; and
- (e) recommend measures to improve plant operations and streamline the maintenance system.

Part 2. Phase II. Preparation of Detailed Feasibility Study of Selected Option and Basic Engineering:

- (a) comprehensive and documented compilation of facts regarding the selected option and any modifications required;
- (b) development of process and project engineering package;
- (c) preparation of project implementation arrangements and timetable; and
- (d) preparation of invitation-to-bid documents.

\* \* \*

The Project is expected to be completed by March 31, 1984.

**SCHEDULE 3**

**Amortization Schedule**

<u>Date of Payment Due</u>	<u>Payment of Principal (Expressed in dollars)*</u>
On each April 1 and October 1 beginning October 1, 1987 through April 1, 2002	170,000

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\* The figures in this column represent dollar equivalents determined as of the respective dates of withdrawal; see General Conditions, Section 3.04.

**Premiums on Prepayment**

The following percentages are specified as the premiums payable on repayment in advance of maturity of any portion of the principal amount of the Loan pursuant to Section 3.04 (b) of the General Conditions:

<u>Time of Prepayment</u>	<u>Premium</u>
Not more than three years before maturity	1.75%
More than three years but not more than six years before maturity	3.50%
More than six years but not more than eleven years before maturity	6.40%
More than eleven years but not more than sixteen years before maturity	9.30%
More than sixteen years but not more than eighteen years before maturity	10.45%
More than eighteen years before maturity	11.60%



INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

CERTIFICATE

I hereby certify that the foregoing is a true copy of the original in the archives of the International Bank for Reconstruction and Development.

In witness whereof I have signed this Certificate and affixed the Seal of the Bank thereunto this 14<sup>th</sup> day of June, 1982.

S. N. Ch  
FOR SECRETARY