

CREDIT NUMBER 2095 TA

Development Credit Agreement

(Port Modernization Project II)

between

UNITED REPUBLIC OF TANZANIA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated May 7, 1990

CREDIT NUMBER 2095 TA

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated May 7, 1990, between UNITED REPUBLIC OF TANZANIA (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 has requested from the Kingdom of Denmark through the Danish International Development Agency (DANIDA) a grant in an amount approximately equivalent to \$4.2 million (the DANIDA Grant) to assist in financing part of the Project;

(C) the Borrower has requested from the Republic of Finland through the Finnish International Development Agency (FINNIDA) a grant in an amount approximately equivalent to \$17.9 million (the FINNIDA Grant) to assist in financing part of the Project;

(D) the Borrower has requested from the Kingdom of Netherlands (the Netherlands) a grant in an amount approximately equivalent to \$5.4 million (the Netherlands Grant) to assist Financing part of the Project;

(E) the Borrower has requested from the Kingdom of Norway through the Norwegian Agency for Development Cooperation (NORAD) a grant in an amount approximately equivalent to \$11.5 million (the NORAD Grant) to assist in financing part of the Project;

(F) the Borrower has requested from the Kingdom of Sweden through the Swedish International Development Authority (SIDA) a grant in an amount approximately equivalent to \$17.5 million (the SIDA Grant) to assist in financing part of the Project;

(G) the Project will be carried out by the Tanzania Harbours Authority with the Borrower's assistance and, as part of such assistance, the Borrower will make available to the Tanzania Harbours Authority 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 the Tanzania Harbours Authority;

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) "Project Agreement" means the agreement between the Association and Tanzania Harbours Authority 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;

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

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

(d) "THA" means the Tanzania Harbours Authority, a statutory corporation, established pursuant to the Tanzania Harbours Authority Act No. 12 of 1977;

(e) "PCU" means the Project Coordination Unit established in THA under the Port Rehabilitation Project (Credit 1536-TA) and to be maintained under the Project; and

(f) "THA Incentive Scheme" means the productivity based incentive scheme to be introduced under the Project by THA, for the payment of bonuses to its staff.

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 this Agreement, an amount in various currencies equivalent to twenty-eight million nine hundred thousand Special Drawing Rights (SDR 28,900,000).

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) The Borrower shall, for the purposes of the Project, open and maintain in dollars two special accounts in its Central Bank, the THA Special Account and the Customs Department Special Account, 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 3 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 1997, 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 June 1 and December 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 semi-annual installments payable on each June 1 and December 1 commencing June 1, 2000, and ending December 1, 2029. Each installment to and including the installment payable on December 1, 2009, 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 Kingdom of Great Britain and Northern Ireland 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, without any limitation or restriction upon any of its other obligations under this Agreement, shall: (i) carry out Part D.5 through its Customs Department and Board of External Trade; and (ii) cause THA to perform in accordance with the provisions of the Project Agreement all the obligations of THA therein set forth, shall take and cause to be taken all action, including the provisions of funds, facilities, services and other resources, necessary or appropriate to enable THA 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 for Parts A, B, C and D.1 through 4 to THA under a subsidiary loan agreement to be entered into between the Borrower and THA, under terms and conditions which shall have been approved by the Association which shall provide, inter alia, that: (i) the proceeds of the Credit shall be relent at an interest rate of eleven percent (11%) per annum, for a term of twenty years, including a grace period of five years; and (ii) THA shall bear the risk resulting from fluctuations in the value of the currencies relent to it.

(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 through 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 THA pursuant to Section 2.03 of the Project Agreement.

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 Part D.5 of the Project, of the departments or agencies of the Borrower responsible for carrying out Part D.5 of the Project.

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

- (a) THA 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 this Agreement, an extraordinary situation shall have arisen which shall make it improbable that THA will be able to perform its obligations under the Project Agreement.
- (c) The Tanzania Harbours Authority Act No. 12 of 1977 shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of THA 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 dissolution or disestablishment of THA or for the suspension of its operations.
- (e)
 - (i) Subject to subparagraph (ii) of this paragraph, the right of the Borrower to withdraw the proceeds of the DANIDA, FINNIDA, Netherlands, NORAD or SIDA Grants 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,
 - (ii) Subparagraph (i) of this paragraph shall not apply if the Borrower establishes to the satisfaction of the Association that:
 - (A) such suspension, cancellation, termination or prematuring is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and
 - (B) 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.

Section 5.02. Pursuant to Section 7.01 (d) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraph (a) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Association to the Borrower; and

(b) the events specified in paragraphs (c), (d) and (e) of Section 5.01 of this Agreement shall occur.

ARTICLE VI

Effective Date; Termination

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

(a) the Subsidiary Loan Agreement has been executed on behalf of the Borrower and THA;

(b) THA has carried out a thorough census of its workforce; and

(c) THA has furnished to the Association, the report and recommendations of its study on the operational guidelines for the THA Incentive Scheme.

Section 6.02. 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 THA, and is legally binding upon THA in accordance with its terms; and

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

Section 6.03. 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 VII

Representative of the Borrower; Addresses

Section 7.01. The Minister of the Borrower at the time responsible for Finance 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:

Ministry of Finance
P.O. Box 9111
Dar es Salaam
United Republic of Tanzania

Cable address:

Telex:

(4)	Consultants' services and training for Part D.5 of the Project	1,260,000	100%
(5)	Equipment for Part D.5 of the Project	320,000	100%
(6)	Unallocated	5,460,000	
	TOTAL	28,900,000	

2. For the purposes of this Schedule, 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.

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.

SCHEDULE 2

Description of the Project

The objectives of the Project are to: (i) expand the physical, managerial and operational capabilities of THA to meet the traffic volume expected in the 1990s; (ii) provide a more reliable and cost effective transport link with neighboring landlocked countries; and (iii) improve the profitability and commercial discipline of port operations.

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: Civil Works

1. Expansion of the storage capacity for containers at the Port Container Terminal and completion of the inland depots at Kurasiri and Ubungo.
2. Construction of a port access road from the port to the inland terminals of Kurasini, ZAMCARGO and the Malawi Cargo Center.
3. Rehabilitation of the corroded and damaged concrete piles on berths 9, 10 and 11 and the installation of an improved fender system.
14. Paving of the Lighterage Wharf for the additional storage of empty containers and dry break-bulk cargo.
5. Rehabilitation of the piles and fender system at the Belgian Wharf.
6. Rehabilitation of existing structures at the Central Workshop.
7. Upgrading of the Kurasini Oil Jetty to enable it to accommodate larger oil tankers.
8. Second phase rehabilitation of Berths 1 through 8 of the General Cargo Terminal.

Part B: Equipment

Acquisition of general cargo handling, equipment including forklift trucks and mobile cranes.

2. Acquisition of container handling equipment including rubber tired gantries, tractors, trailers and forklift trucks.

3. Acquisition of one additional ship-to-shore gantry crane to increase container berth capacity.

4. Acquisition of computers and copying, telex and facsimile machines by THA.

5. Acquisition and installation of equipment and tools for the Central Workshop.

Part C: Construction Design, Supervision and Studies

1. Design and supervision of construction activities under Part A of the Project.

2. Carrying out a Port Development Study to determine the various options available for the future expansion of capacity at the Port of Dar es Salaam.

3. Carrying out a study to determine the design and operation of the Central Workshop.

Part D: Institutional Development

1. Training and institutional support for PCU staff.

2. Training and institutional support for THA's middle and upper management staff.

3. Training and institutional support for the maintenance of cargo handling equipment.

4. Development of a Management Information System for THA.

5. (a) Training and institutional support: for Customs Department officials in improving and streamlining customs regulations and procedures including the use of computers.

(b) Training and institutional support for the Board of External Trade in improving trade documentation and procedures.

(c) Acquisition of computer and other equipment for above activities.

* * * *

The Project is expected to be completed by December 31, 1996.

SCHEDULE 3

Special Accounts

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) through (3) (for the THA Special Account) and Categories (4) and (5) for the Customs Department Special Account 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 an amount: equivalent to \$1,500,000 for the THA Special Account and \$400,000 for the Customs Department Special Account, to be withdrawn from the Credit Account and deposited into the Special Accounts pursuant to paragraph 3 (a) of this Schedule.

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. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the respective Special Accounts such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the respective Special Account, the Borrower shall furnish to the Association requests for deposits into that Special Account 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 Accounts 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

deposits into the Special Accounts:

(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 Account 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 the Special Accounts: (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 the Special Accounts (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 the Special Accounts 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 the Special Accounts 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 paragraph 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.

