

CONFORMED COPY

CREDIT NUMBER 2237 GUB

(Energy Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

DISTRIBUIDORA DE COMBUSTIVEIS E LUBRIFICANTES

Dated August 21, 1991

CREDIT NUMBER 2237 GUB

PROJECT AGREEMENT

AGREEMENT, dated August 21, 1991, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and DISTRIBUIDORA DE COMBUSTIVEIS E LUBRIFICANTES (DICOL).

WHEREAS (A) by the Development Credit Agreement of even date herewith between REPUBLIC OF GUINEA-BISSAU (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to eleven million three hundred thousand Special Drawing Rights (SDR 11,300,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that DICOL agree to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by two subsidiary loan agreements to be entered into between the Borrower and DICOL, the proceeds of the credit provided for under the Development Credit Agreement will be relent to DICOL on the terms and conditions set forth in said subsidiary loan

agreements; and

WHEREAS DICOL, in consideration of the Association's entering into the Development Credit Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Credit Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) DICOL declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement and, to this end, shall carry out Parts B and D.1 of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and engineering practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Parts B and D.1 of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and DICOL shall otherwise agree, DICOL shall carry out Parts B and D.1 of the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Parts B and D.1 of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. DICOL shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of the Project Agreement and Parts B and D.1 of the Project.

Section 2.04. DICOL shall duly perform all its obligations under the DICOL Subsidiary Loan Agreements. Except as the Association shall otherwise agree, DICOL shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving either of the DICOL Subsidiary Loan Agreements or any provision thereof.

Section 2.05. (a) DICOL shall, at the request of the Association, exchange views with the Association with regard to the progress of Parts B and D.1 of the Project, the performance of its obligations under this Agreement and under the DICOL Subsidiary Loan Agreements, and other matters relating to the purposes of the Credit.

(b) DICOL shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of Parts B and D.1 of the Project, the accomplishment of the purposes of the Credit, or the performance by DICOL of its obligations under this Agreement and under the DICOL Subsidiary Loan Agreements.

ARTICLE III

Management and Operations of DICOL

Section 3.01. DICOL 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 3.02. DICOL shall at all times operate and maintain its plant, machinery, equipment and other property (including all petroleum depots), and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering and financial practices.

Section 3.03. DICOL shall take out and maintain with responsible insurers, or make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

Section 3.04. DICOL shall, not later than December 31, 1991, enter into an agreement with Pescarte, on reasonable commercial terms, pursuant to which DICOL shall obtain for a period of no less than three years the nonexclusive right to use the 45-ton barge and pusher tug owned by Pescarte.

Section 3.05. DICOL shall implement in a timely manner the DICOL Financial Restructuring Plan, the DICOL Management Plan and the DICOL Financing Plan.

Section 3.06. DICOL shall not make capital investments (whether financed by borrowings or otherwise) aggregating in any DICOL fiscal year more than the equivalent of \$250,000 without the consent of the Association, provided that the Association has responded, affirmatively or negatively, within 30 days of receipt of a written request from DICOL for its consent.

Section 3.07. DICOL shall, not later than June 30, 1992, implement an accounting and management information system satisfactory to the Association.

Section 3.08. DICOL shall only sell petroleum products to Private Customers on a cash-and-carry basis.

Section 3.09. DICOL shall, no earlier than January 1, 1993 and no later than March 31, 1993, carry out jointly with the Association a mid-term review of the progress made in carrying out Parts B and D.1 of the Project.

ARTICLE IV

Financial Covenants

Section 4.01. (a) DICOL shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) DICOL shall:

- (i) have its records, 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 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 its financial statements for such year as so audited and (B) 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 financial statements as well as 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, DICOL 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 report for the fiscal year in which the last withdrawal from the Credit Account for purposes of Parts B or D.1 or payment out of the DICOL Special 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) Except as the Association shall otherwise agree, DICOL shall produce, for each of its fiscal years after its fiscal year ending on December 31, 1991, funds from internal sources equivalent to not less than 100% of the annual average of DICOL's local Project capital expenditures incurred, or expected to be incurred, for that year, the previous fiscal year and the next following fiscal year.

(b) Before March 31 in each of its fiscal years, DICOL shall, on the basis of forecasts prepared by DICOL and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year and shall furnish to the Association a copy of such review upon its completion.

(c) If any such review shows that DICOL would not meet the requirements set forth in paragraph (a) for DICOL's fiscal years covered by such review, DICOL shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its prices, subject to the limitations set forth in Section 4.02 of the Development Credit Agreement) in order to meet such requirements.

(d) For the purposes of this Section:

- (i) The term "funds from internal sources" means the difference between:
 - (A) the sum of revenues from all sources related to operations, consumer deposits and consumer contributions in aid of construction, net non-operating income and any reduction in working capital other

than cash; and

- (B) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends and other cash distributions of surplus, increase in working capital other than cash and other cash outflows other than capital expenditures.
- (ii) The term "net non-operating income" means the difference between:
 - (A) revenues from all sources other than those related to operations; and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
 - (iii) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.
 - (iv) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year.
 - (v) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.
 - (vi) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.
 - (vii) The term "local Project capital expenditures" means all expenditures on account of Project fixed assets related to operations, including interest charged to construction. The term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower. The term "Project fixed assets" means all fixed assets acquired for purposes of the Project.
 - (viii) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Association.

Section 4.03. (a) Except as the Association shall otherwise agree, DICOL shall produce for each of its fiscal years after its

fiscal year ending on December 31, 1991, total revenues equivalent to not less than the sum of: (i) its total operating expenses; and (ii) the amount by which debt service requirements exceed the provision for depreciation.

(b) Before March 31 in each of its fiscal years, DICOL shall, on the basis of forecasts prepared by DICOL and satisfactory to the Association, review whether it would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year and shall furnish to the Association the results of such review upon its completion.

(c) If any such review shows that DICOL would not meet the requirements set forth in paragraph (a) for DICOL's fiscal years covered by such review, DICOL shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its prices) in order to meet such requirements.

(d) For purposes of this Section:

- (i) The term "total revenues" means the sum of total operating revenues and net non-operating income.
- (ii) The term "total operating revenues" means revenues from all sources related to operations.
- (iii) The term "net non-operating income" means the difference between:
 - (A) revenues from all sources other than those related to operations; and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (iv) The term "total operating expenses" means all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, and provision of depreciation on a straight-line basis at a rate of not less than 6.67% per annum of the average current gross value of DICOL's fixed assets in operation, or other basis acceptable to the Association, but excluding interest and other charges on debt.
- (v) The average current gross value of DICOL's fixed assets in operation shall be calculated as one half of the sum of the gross value of DICOL's fixed assets in operation at the beginning and at the end of the fiscal year, as valued from time to time in accordance with sound and consistently maintained methods of valuation satisfactory to the Association.
- (vi) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.
- (vii) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Association.

Section 4.04. (a) Except as the Association shall otherwise agree, DICOL shall not incur any debt unless a reasonable forecast of the revenues and expenditures of DICOL shows that the estimated net revenues of DICOL for each fiscal year during the term of the debt to be incurred shall be at least one and a half (1-1/2) times the estimated debt service requirements of DICOL in such year on all debt of DICOL including the debt to be incurred.

(b) For the purposes of this Section:

- (i) The term "debt" means any indebtedness of DICOL maturing by its terms more than one year after the date on which it is originally incurred.
- (ii) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
- (iii) The term "net revenues" means the difference between:
 - (A) the sum of revenues from all sources related to operations and net non-operating income; and
 - (B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.
- (iv) The term "net non-operating income" means the difference between:
 - (A) revenues from all sources other than those related to operations; and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.
- (vi) The term "reasonable forecast" means a forecast prepared by DICOL not earlier than twelve months prior to the incurrence of the debt in question, which both the Association and DICOL accept as reasonable and as to which the Association has notified DICOL of its acceptability, provided that no event has occurred since such notification which has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition or future operating results of DICOL.
- (vii) Whenever for the purposes of this Section it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of

servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Association.

ARTICLE V

Effective Date; Termination;
Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of DICOL thereunder shall terminate on the earlier of the following two dates:

- (i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or
- (ii) the date twenty years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify DICOL of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For the Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INDEVAS
Washington, D.C.

Telex:

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

For DICOL:

Distribuidora de Combustiveis
e Lubrificantes da Guine-Bissau, LDA
Caixa Postal No. 3
Bissau
Guine-Bissau

FAX:

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of DICOL, or by DICOL on behalf of the Borrower under the Development Credit Agreement, may be taken or executed by the Director General of DICOL or such other person or persons as the Director General of DICOL shall designate in writing, and DICOL shall furnish to the Association sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

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.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Edwin R. Lim
Acting Regional Vice President
Africa

DISTRIBUIDORA DE COMBUSTIVEIS E LUBRIFICANTES

By /s/ Alfredo L. Cabral
Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I. Procurement of Goods

Part A: International Competitive Bidding

1. Goods shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1985 (the Guidelines).

2. To the extent practicable, contracts for goods shall be grouped into bid packages estimated to cost the equivalent of \$100,000 or more.

Part B: Other Procurement Procedures

Contracts for goods (other than petroleum products) up to an aggregate amount equivalent to \$1,430,000 may be awarded after direct negotiations with suppliers, in accordance with procedures acceptable to the Association.

Part C: Review by the Association of Procurement Decisions

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

(a) With respect to each contract for goods estimated to cost the equivalent of \$150,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply.

Where payments for such contract are to be made out of the DICOL Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Association pursuant to said paragraph 2 (d) shall be furnished to the Association prior to the making of the first payment out of the DICOL Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of the DICOL Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together, with the other information required to be furnished to the Association pursuant to said paragraph 3, shall be furnished to the Association as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 4 to this Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which the Association has authorized withdrawals on the basis of statements of expenditure.

2. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II. Employment of Consultants

In order to assist DICOL in carrying out Part B of the Project, DICOL shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Association on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by The World Bank as Executing Agency" published by the Bank in August 1981.

SCHEDULE 2

Implementation Program

1. The DICOL project implementation and control team, established in accordance with paragraph 3 (b) (v) of Schedule 1 to the Development Credit Agreement, shall monitor implementation of Parts B and D.1 of the Project, and shall be responsible for coordinating the training of DICOL's staff.

2. Petroleum Facility. The Petroleum Facility shall be operated as follows.

a. Accounts: (i) the Borrower shall open and maintain a special account in Dollars (the Petroleum Facility Account), under terms acceptable to the Association, in an international bank acceptable to the Association; and

(ii) DICOL shall open and maintain a special account in Guinea-Bissau pesos (the Working Capital Petroleum Account), under terms acceptable to the Association, in a bank located within the territory of the Borrower acceptable to the Association.

b. Deposits: (i) subject to paragraph (d) (i) below, DICOL shall deposit into the Working Capital Petroleum Account, within fifteen days following the end of each calendar month, an amount in Guinea-Bissau pesos equivalent to the number of liters of petroleum products either (A) sold to Private Customers during the preceding calendar month or (B) paid for by Public Sector Customers during the preceding calendar month, multiplied by the corresponding CIF value per liter of such products;

(ii) subject to paragraph (d) (i) below, DICOL shall present to the Borrower, shortly following the end of each month, a deposit request for an amount of Dollars equivalent to the sum of: (A) all receivables accruing after the date of this Agreement held by DICOL in the name of any Public Sector Customer that are at least

thirty days overdue; and (B) all Guinea-Bissau pesos then held in the Working Capital Petroleum Account; and

(iii) subject to paragraph (d) (ii) below, the Borrower shall deposit into the Petroleum Facility Account, within 10 days of receipt of the above-mentioned deposit request from DICOL, the amount of Dollars therein requested by DICOL.

(c) Withdrawals: (i) at the direction and option of DICOL, amounts held in the Petroleum Facility Account shall be released either (A) for the purpose of paying for the import of petroleum products into the territory of the Borrower or (B) beginning two years after the date of this Agreement, to repay the Borrower under the Petroleum Facility Subsidiary Loan Agreement; and

(ii) upon such release, the corresponding amount of Borrower arrears referred to in paragraph (b) (ii) (A) above shall be cancelled and the corresponding amounts of Guinea-Bissau pesos referred to in paragraph (b) (ii) (B) above shall be released from the Working Capital Petroleum Account to the Borrower.

(d) Limitations: (i) DICOL shall have no obligation to make any deposit into the Working Capital Petroleum Account if the Dollar equivalent of the sum of: (i) the Borrower arrears referred to in paragraph (b) (ii) (A) above and the amount of Guinea-Bissau pesos then held in the Working Capital Petroleum Account exceeds:
(x) \$1,400,000 so long as there shall remain at least \$600,000 available under Category 7 of Schedule 1 to the Development Credit Agreement, and (y) \$2,000,000 thereafter; and

(ii) the Borrower shall have no obligation to make any deposit into the Petroleum Facility Account if the balance exceeds:
(x) \$1,400,000 so long as there shall remain at least \$600,000 available under Category 7 of Schedule 1 to the Development Credit Agreement, and (y) \$2,000,000 thereafter.

(e) Exchange Rate. For purposes of calculations under the Petroleum Facility, the exchange rate to be used for converting Guinea-Bissau pesos into Dollars shall be the commercial rate then legally available in the territory of the Borrower.

