

CONFORMED COPY

CREDIT NUMBER 1894 SU

(Railways Emergency Recovery Program)

between

THE REPUBLIC OF SUDAN

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated June 10, 1988

CREDIT NUMBER 1894 SU

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated June 10, 1988, between the REPUBLIC OF SUDAN (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 intends to contract from the African Development Fund (ADF) a loan (the ADF Loan) in an amount equivalent to ten million nine hundred thousand Units of Account (UA 10,900,000) to assist in financing the Project on the terms and conditions set forth in an agreement (the ADF Loan Agreement) to be entered into between the Borrower and ADF;

(C) the Borrower intends to contract from the Government of the Federal Republic of Germany through Kreditanstalt fur Wiederaufbau (KfW) a grant (the KfW Grant) in an amount equivalent to eighteen million seven hundred thousand Deutsche Mark

(DM 18,700,000) to assist in financing the Project on the terms and conditions set forth in an agreement (the KfW Grant Agreement) to be entered into between the Borrower and KfW;

(D) the Borrower and the Overseas Development Administration of the United Kingdom intend to enter into a memorandum of understanding (the ODA Memorandum of Understanding) for the purpose of making available goods and services to the Borrower with a value of about eleven million three hundred thousand pounds sterling (u 11,300,000) (the ODA Grant) to assist in financing the Project on terms and conditions set forth in the ODA Memorandum of Understanding;

(E) the Borrower intends to contract from the Government of the Kingdom of the Netherlands a grant (the Dutch Grant) in an amount of five million Dutch Guilders (DF1 5,000,000) to assist in financing the Project on the terms and conditions set forth in an agreement (the Dutch Grant Agreement) to be entered into between the Borrower and the Government of the Kingdom of the Netherlands;

(F) the Borrower intends to obtain from the Commission of the European Economic Community (EEC) a grant in an amount of seven million five hundred thousand ECU to be made from its Economic Development Fund (the EDF Grant) to assist in financing the Project on the terms and conditions set forth in an agreement (the EDF Grant Agreement) to be entered into between the Borrower and the EEC;

(G) the Project will be carried out by Sudan Railways Corporation (SRC) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to SRC the proceeds of the Credit as provided in this Agreement; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement and in the Project Agreement of even date herewith between the Association and SRC;

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 SRC 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) "Staff Rationalization Fund" means the fund to be established by the Borrower for the purposes of financing the costs associated with the staff reduction program of SRC;

(c) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement; and

(d) "Fiscal Year" and "FY" mean the period starting July 1 and ending June 30 of each year.

#### 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 twenty-five million six hundred and fifty thousand Special Drawing Rights (SDR 25,650,000).

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 a special account in the Bank of Sudan or a commercial bank authorized by the Bank of Sudan on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 3 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 1992, 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 at the rate of one-half of one percent ( $1/2$  of 1%) per annum on the principal amount of the Credit not withdrawn from time to time. The commitment charge shall accrue from a date sixty days after the date of the Development Credit Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or shall be cancelled.

(b) 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 15 and August 15 in each year.

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each February 15 and August 15 commencing August 15, 1998 and ending February 15, 2028. Each installment to and including the installment payable on February 15, 2008, shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the terms of repayment of installments under paragraph (a) above by requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid. If so requested by the Borrower,

the Association may revise such modification to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(c) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

### ARTICLE III

#### Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, without any limitation or restriction upon any of its other obligations under the Development Credit Agreement shall cause SRC to perform in accordance with the provisions of the Project Agreement all the obligations of SRC therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable SRC 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 transfer the proceeds of the Credit to SRC as an equity contribution.

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 1 to the Project Agreement.

Section 3.03. The Borrower and the Association hereby agree that the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) shall be carried out by SRC pursuant to Section 2.03 of the Project Agreement.

Section 3.04. The Borrower shall:

(a) establish, not later than October 31, 1988, the Staff Rationalization Fund; and

(b) deposit in said fund amounts as and when required to finance the costs associated with the staff reduction program of SRC.

### ARTICLE IV

#### Financial and Other Covenants

Section 4.01. (a) For all expenditures with respect to which withdrawals from the Credit Account were made on the basis of statements of expenditures, the Borrower shall:

(i) maintain or cause to be maintained, in accordance with sound accounting practices, records and accounts reflecting such expenditures;

- (ii) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained 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; and
  - (iii) enable the Association's representatives to examine such records.
- (b) The Borrower shall:
- (i) have the records and accounts referred to in paragraph (a) (i) of this Section and those for the Special Account 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, the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested, including 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; and
  - (iii) furnish to the Association such other information concerning said records and accounts and the audit thereof as the Association shall from time to time reasonably request.

Section 4.02. The Borrower shall take all measures required on its part to enable SRC to meet the requirements of Section 4.02 of the Project Agreement, including the permission of SRC to adjust the structure or levels of its tariffs.

Section 4.03. The Borrower shall:

(a) settle, by June 30, 1990, any outstanding bills for transportation services rendered to it by SRC which are overdue by more than 60 days; and

(b) thereafter continue to pay for SRC's services within 60 days after the receipt of SRC's bills.

#### 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) SRC shall have failed to perform any of its obligations under the Project Agreement.

(b) As a result of events which have occurred after the date of the Development Credit Agreement, an extraordinary situation shall have arisen which shall make it improbable that SRC will be able to perform its obligations under the Project Agreement.

(c) The Sudan Railways Corporation Act, 1973, of the Borrower, as amended to the date of this Agreement, shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of SRC 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 SRC or for the suspension of its operations.

(e) (i) Subject to subparagraph (ii) of this paragraph:

(A) The right of the Borrower to withdraw the proceeds of any grant, loan or credit 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, or

(B) any such credit or loan shall have become due and payable prior to the agreed maturity thereof.

(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.

(f) The Association shall have failed to receive by December 31, 1988, (or such later date as the Association may agree) appropriate notification showing that all the conditions precedent (if any) to the disbursement of at least \$28,000,000 equivalent (in addition to the \$30,000,000 equivalent referred to in Section 6.01 hereof) out of the loans and grants referred to in the Preamble hereof have been fulfilled; provided, however, that the provisions of this paragraph shall not apply if the Borrower establishes to the satisfaction of the Association that 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;

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

(c) the event specified in paragraph (e) (i) (B) of Section 5.01 of this Agreement shall occur, subject to the proviso of paragraph (e) (ii) of that Section.

#### ARTICLE VI

##### Effective Date; Termination

Section 6.01. The following event is specified as an additional condition to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions, namely, that the Association shall have received appropriate notification showing that all the conditions precedent (if any) to the disbursement of at least \$30,000,000 equivalent out of the loans and grants referred to in the Preamble

hereto have been fulfilled, save for the effectiveness hereof.

Section 6.02. The following is specified as an additional matter, 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, namely, that the Project Agreement has been duly authorized or ratified by SRC, and is legally binding upon SRC 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 Finance and Economic Planning of the Borrower 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 and Economic Planning  
P.O. Box 2092  
Khartoum  
The Republic of Sudan

Cable address:

EIMAR  
Khartoum

Telex:

22324

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:

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

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.

THE REPUBLIC OF SUDAN

By /s/ Salah Ahmed Mohamed Salih  
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Edward V.K. Jaycox  
Regional Vice President

## SCHEDULE 1

## Withdrawal of the Proceeds of the Credit

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:

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
(1) Equipment, spare parts and materials	11,300,000	100% of foreign expenditures and 80% of local expenditures
(2) Consultants' services	11,450,000	100%
(3) Training	300,000	100%
(4) Unallocated	2,600,000	
TOTAL	25,650,000	

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; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

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: (i) to arrest the further deterioration of SRC's operating performance; (ii) to improve the utilization of its existing capacity; and (iii) to restructure SRC as a financially sound and economically efficient provider of transportation.

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: Motive Power and Rolling Stock

Acquisition of spare parts and workshop equipment for the overhaul, reconditioning and maintenance of locomotives and wagons.

Part B: Infrastructure Repair

Acquisition of track repair materials and signalling and telecommunication spare parts.

Part C: Operational Improvements and Institutional Development



1. Strengthening the management and operational capabilities of SRC through the provision of consultants' services and training, and the acquisition of training and computer equipment.
2. Completion of the Atbara Central Railway Training School.
3. Studies on: (a) the feasibility of establishing separate enterprises for certain of SRC's functions; (b) the contracting-out of SRC's building construction; (c) the review and reorganization of the Atbara workshop procedures and practice; (d) the future needs of the mechanical, civil and signal engineering workshops; (e) an outline of SRC's five-year corporate plan; (f) a mini-computer-based system for SRC's headquarters and regional activities; (g) traffic costing comparisons and forecasts; and (h) the costs and methods of implementing staff reduction programs.

\* \* \*

The Project is expected to be completed by December 31, 1991.

### SCHEDULE 3

#### Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) through (3) 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 SDR 600,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Except as the Association shall otherwise agree, payments out of the Special Account 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 Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account may be made as follows:

(a) On the basis of a request or requests by the Borrower for a deposit or deposits which add up to the aggregate amount of the Authorized Allocation, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.

(b) The Borrower shall furnish to the Association requests for replenishment of the Special Account at such intervals as the Association shall specify. On the basis of such requests, the Association shall withdraw from the Credit Account and deposit into the Special Account such amounts as shall be required to replenish the Special Account with amounts not exceeding the amount of payments made 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 the evidence supporting the request for such deposit furnished pursuant to paragraph 4 of this Schedule.

4. For each payment made by the Borrower out of the Special

Account for which the Borrower requests replenishment pursuant to paragraph 3 (b) of this Schedule, the Borrower shall furnish to the Association, prior to or at the time of such request, such documents and other evidence as the Association shall reasonably request, showing that such payment was made for eligible expenditures.

5. (a) Notwithstanding the provisions of paragraph 3 of this Schedule, no further deposit into the Special Account shall be made by the Association when either of the following situations first arises:

- (i) 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
- (ii) the total unwithdrawn amount of the Credit allocated to the eligible Categories minus 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 be equal to the equivalent of twice the amount of the Authorized Allocation.

(b) 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 Account (i) was made for any expenditure or in any amount not eligible pursuant to paragraph 2 of this Schedule, or (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association, 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 or the portion thereof not so eligible or justified. No further deposit by the Association into the Special Account shall be made until the Borrower has made such deposit or refund.

(b) If the Association shall have determined at any time that any amount outstanding in the Special Account 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 for crediting to the Credit Account.

