

CONFORMED COPY

CREDIT NUMBER 2606 LA

(Second Highway Improvement Project)

between

LAO PEOPLE'S DEMOCRATIC REPUBLIC

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated July 20, 1994

CREDIT NUMBER 2606 LA

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated July 20, 1994, between LAO PEOPLE'S DEMOCRATIC REPUBLIC (the "Borrower") and INTERNATIONAL DEVELOPMENT ASSOCIATION (the "Association").

WHEREAS: (A) The Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project; and

WHEREAS: (B) The Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement.

NOW THEREFORE the parties hereto hereby agree as follows.

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985, 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) "Central Bank" means the Borrower's Banque Centrale Lao, established and operating pursuant to the Borrower's Prime Ministerial Decree No. 95/PM, dated June 22, 1993;

(b) "Environmental Guidelines" means the guidelines approved by the Borrower pursuant to its Prime Ministerial Decree to be adopted pursuant to the provisions of Section 5.01 (a) of this Agreement, which Guidelines shall set forth the minimum environmental protection standards and procedures, satisfactory to the Association, applicable to the implementation of all road construction, improvement and maintenance projects throughout the Borrower's territory;

(c) "Fiscal Year" means the twelve (12)-month period corresponding to any of the Borrower's financial years, which period commences on October 1 and ends on September 30 in each calendar year, and the term "Fiscal Years" means collectively each of said Fiscal Year;

(d) "MCTPC" means the Borrower's Ministry of Communication, Transport, Post and Construction;

(e) "PCU" means the Project Coordination Unit established by the Borrower within MCTPC, pursuant to MCTPC's Decree No. 0074, dated January 14, 1994, which Unit is referred to in Section 3.02 of this Agreement;

(f) "PMU" means the Project Management Unit to be established by the Borrower pursuant to the provisions of Section 3.03 of this Agreement;

(g) "RMMD" means the Road Maintenance Management Division of the Department of Communications of MCTPC;

(h) "Road Maintenance Program" means the Borrower's 1994-1999 annual program for the routine and periodic maintenance of the roads within its jurisdiction, which program includes the necessary budgetary allocations and public investments for the financing thereof, as such program has been approved by the Borrower, and as such program may be adjusted from time to time in agreement with the Association;

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

(j) "State Enterprise" means the commercial state enterprise established by the Borrower pursuant to MCTPC's Decree No. 2375, dated October 30, 1993, merging the Borrower's prior State Enterprise No. 13/2, State Enterprise No. 13/3 and State Enterprise No. 13/4 into a single commercial state enterprise, and which is to be maintained by the Borrower pursuant to the provisions of Section 3.06 of this Agreement.

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-one million eight hundred thousand Special Drawing Rights (SDR 21,800,000).

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 deposit account in Banque pour le Commerce Exterieur Lao on terms and conditions satisfactory to the Association,

including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2001, 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 or 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 payment 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 per cent (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 January 1 and July 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 January 1 and July 1 commencing July 1, 2004 and ending January 1, 2034. Each installment to and including the installment payable on January 1, 2014 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 seven hundred and ninety dollars (\$790) in constant 1985 dollars for five (5) 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, shall carry out the Project, except Part A (2) thereof, through MCTPC, and shall carry out Part A (2) of the Project through the State Enterprise, all with due diligence and efficiency and in conformity with appropriate administrative, economic, engineering, financial and environmental practices, and shall provide, promptly as needed, the funds (including foreign exchange), facilities services and other resources required for the Project.

Section 3.02. The Borrower shall maintain within MCTPC, until the completion of the Project, the Project Coordination Unit headed by an experienced and qualified engineer, and shall continue to vest it with such responsibilities, funds, staff and other requisite resources as shall be required to enable the PCU to undertake the overall supervision and coordination of the Project.

Section 3.03. The Borrower shall establish and thereafter maintain within MCTPC, until the completion of the Project, a Project Management Unit (the "PMU"), with functions and terms of reference satisfactory to the Association, which PMU shall be responsible for the day-to-day supervision of the construction of works under Part A (2) of the Project.

Section 3.04. (a) Not later than October 31 in each of its Fiscal Years, beginning Fiscal Year 1995, the Borrower shall review with the Association the progress achieved by the Borrower, during the immediately preceding Fiscal Year, in carrying out the Road Maintenance Program and the adequacy of its financing and related budgetary allocations.

(b) If the results of any of said reviews are not satisfactory to the Association, the Borrower shall promptly take all such remedial action, satisfactory to the Association, as shall be necessary to achieve the objectives of the Road Maintenance Program, and thereafter shall carry out the Road Program with due diligence and efficiency and in accordance with the Association's recommendations.

Section 3.05. The Borrower shall take all action necessary to ensure that all road maintenance and periodic spot improvement works under the Road Program are carried out in conformity with the Environmental Road Guidelines, and otherwise in a manner which ensures that any adverse environmental impact is effectively mitigated in a timely manner.

Section 3.06. The Borrower shall maintain the State Enterprise until completion of the Project, and shall ensure that said State Enterprise possesses at all times functions and attributes acceptable to the Association.

Section 3.07. For the purpose of assisting the State Enterprise in carrying out Part A (2) of the project, the Borrower shall cause MCTPC to employ and thereafter assign to the State Enterprise at least two (2) experts in contracting road works, in accordance with the provisions of Section II of Schedule 3 to this Agreement, each with responsibilities, qualifications and terms of employment satisfactory to the Association.

Section 3.08. Except as the Association shall otherwise agree, procurement of the 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 3 to this Agreement.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be

maintained separate records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of the Project of the departments or agencies of the Borrower responsible for carrying out the Project or any part thereof.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) of this Section including 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 four (4) 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 (1) year after the Association has received the audit report for the fiscal year in which the last withdrawal from the Credit Account or payment out of the 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.

ARTICLE V

Effective Date; Termination

Section 5.01. 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, namely, that:

(a) The Borrower shall have adopted a Prime Ministerial Decree approving the Environmental Guidelines, in form and substance acceptable to the Association, and said Decree shall have become effective.

(b) The Borrower shall have established the PMU, pursuant to the provisions of Section 3.03 of this Agreement; and

(c) The Borrower shall have caused MCTPC to employ and thereafter assign to the State Enterprise the two experts referred to in Section 3.07 of this Agreement in accordance with the provisions thereof.

Section 5.02. 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.

Section 5.03. The obligations of the Borrower under Articles III and IV of this Agreement shall cease on the date on which this Agreement shall terminate, or on the date twenty (20) years after the date of this Agreement, whichever shall be the earlier.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Minister of Finance
Ministry of Finance
Post Office Box No. 46
Vientiane
Lao People's Democratic Republic

Cable address:

Telex:

MINFINANCE
VIENTIANE

4369
MOF LS

For the Association:

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

Cable address:

Telex:

INDEVAS
Washington, D.C.

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

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.

LAO PEOPLE'S DEMOCRATIC REPUBLIC

By /s/ Hiem Phommachanh

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Nicholas C. Hope

Acting 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) Civil works under Part A(1) of the Project	4,030,000	100%
(2) Civil works under Part A(2) of the Project	11,120,000	100%
(3) Consultants' services, in- cluding audits and training	3,290,000	100%
(4) Unallocated	3,360,000	
TOTAL	21,800,000	

2. 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.

3. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures under contracts for works and services not exceeding fifty thousand dollars (\$50,000) equivalent, under such terms and conditions as the Association shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Borrower in carrying out the Road Program, which is designed to generally help maintain and improve the Borrower's road network, and to strengthen the Borrower's institutional capacity to manage and implement the Road Program.

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. Spot regravelling, grading, embankment raising, provision of drainage and culverts and improvement of bridges at selected locations over a distance of two thousand kilometers (2000 kms) throughout the Borrower's road network.
2. Upgrading of about one hundred thirty-five kilometers (135 kms) of the Borrower's Savannakhet-Pakse road to bituminous surface standard.
3. Carrying out of routine maintenance, including ditch clearing, culvert, bridge and pavement maintenance over a distance of about five thousand five hundred kilometers (5,500 kms) throughout the Borrower's road network.

Part B: Institutional Strengthening

1. Provision of technical assistance services to RMMD to strengthen its capacity to manage the implementation of the maintenance component of the Road Program.
2. Provision of technical assistance services to the State Enterprise to strengthen its capabilities to manage, plan and cost road construction and improvement and maintenance works, including the preparation of bids in connection therewith.
3. Provision to MCTPC of: (a) technical assistance services to assist it in the overall implementation of the Project, including construction supervision services to assist it in supervising the implementation of works under Part A (2) of the Project; (b) technical assistance to assist it in overall transport planning; (c) technical assistance to develop its accounting and auditing capabilities; and (d) training for its personnel in engineering and economics, including study tours abroad.

* * * * *

The Project is expected to be completed by December 31, 2000.
SCHEDULE 3

Procurement and Consultants' Services

Section I: Procurement of Works

Part A: Local Competitive Bidding

1. Except as provided in Part C hereof civil works shall be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Association.
2. Bidders for the works under paragraph 1 above hereof shall be pre-qualified as described in paragraph 2.10 of the "Guidelines for Procurement, under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the "Guidelines").

Part B: Procurement Practices

Without any limitation or restriction upon any of the provisions of the Guidelines, the Borrower shall ensure, in respect of the procurement of works in accordance with the procedures referred to in Part A hereof, that:

1. All tender documents shall be made available in the English language, as well as in the Lao language;
2. Foreign bidders shall not be required to have local agents;
3. No prior registration of foreign bidders shall be required;
4. No preference shall be granted on the basis of: (a) national origin of the bidder, except as provided in paragraphs 2.55 and 2.56 of the Guidelines, and paragraphs 1 through 4 of Appendix 2 thereto; (b) the legal nature of the bidder; or (c) any financial facilities offered by a bidder, such as export credit or suppliers' credit.
5. The opening of bids shall take place in public and in the presence of all bidders wishing to attend, including foreign bidders; and
6. Awards shall be made to the lowest evaluated bidder, irrespective of the bidder's national origin.

Part C: Direct Contracting

Works under Part A (1) of the Project estimated to cost the equivalent of two hundred and fifty thousand dollars (\$250,000) or less per contract, up to an aggregate amount not to exceed the equivalent of two million

dollars (\$2,000,000), and works under Part A (2) of the Project estimated to cost the equivalent of two million five hundred thousand dollars (\$2,500,000) or less up to an aggregate amount not to exceed five million dollars (\$5,000,000) may be procured under contract after direct negotiations with contractors, with the Association's prior approval, and in accordance with procedures satisfactory to the Association.

Part D: Review by the Association of Procurement Decisions

1. Review of prequalifications: with respect to the prequalification of bidders as provided in Part A.2 hereof, the procedures set forth in paragraph 1 of Appendix 1 to the Guidelines shall apply.

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

With respect to all contracts for works, estimated to cost the equivalent of more than two hundred and fifty thousand dollars (\$250,000) per contract, awarded pursuant to the provisions of Part A hereof, 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 Special Account, such procedures shall be modified to ensure that the two (2) 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 Special Account in respect of such contract.

3. With respect to each contract to be awarded pursuant to the provisions of Part C hereof the Borrower, shall furnish to the Association for its review and approval a draft of the negotiated contract, and shall furthermore furnish to the Association two conformed copies of each such contract promptly after its execution and prior to the delivery to the Association of the first application for withdrawal of funds from the Credit Account or to making the first payment out of the Special Account in respect of such contract.

4. The figure of fifteen percent (15%) is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II. Employment of Consultants

1. In order to assist the Borrower in carrying out the Project, the Borrower 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 Bank 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 (the "Consultant Guidelines").

2. For complex, time-based assignments, the Borrower shall employ such consultants under contracts using the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Association. Where no relevant standard contract documents have been issued by the Bank, the Borrower shall use other standard forms agreed with the Association.

SCHEDULE 4

Special Account

1. For the purposes of this Schedule:

(a) The term "Eligible Categories" means Categories (1), (2) and (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 one

million dollars (\$1,000,000) to be withdrawn from the Credit Account and deposited in the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. 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 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 in the Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposits into the 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 Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for Eligible Expenditures.

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 Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for Eligible Expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

(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 Account: (i) was made for an expenditure or in an 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: (A) provide such additional evidence as the Association may request; or (B) 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. Unless the Association shall otherwise agree, no further deposit by the Association into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association 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.

(c) The Borrower may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Association made pursuant to paragraphs 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.

