

CONFORMED COPY

CREDIT NUMBER 2995 BD

Development Credit Agreement

(Private Sector Infrastructure Development Project)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated November 14, 1997

CREDIT NUMBER 2995 BD

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated November 14, 1997, between PEOPLE'S REPUBLIC OF BANGLADESH (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 obtain funds from the following financiers in the following amounts or equivalent (the Cofinancing Funds) to assist in financing Part B of the Project on the terms and conditions set forth in agreements to be entered into between the Borrower and such financiers (the Cofinancing Agreements):

Canadian International Development Agency (CIDA) CAN\$5,000,000

British Department for International Development (DfID) £5,000,000

(C) Part A of the Project will be carried out by the Infrastructure Development Company Limited (hereinafter called IDCOL), as an agent of the Borrower, with the Borrower's assistance, and as part of such assistance, the Borrower will make available to IDCOL part of 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 IDCOL;

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 modifications set forth in Schedule 3 to this Agreement (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) "IDCOL" means the Infrastructure Development Company Limited, a body corporate established and existing under the Bangladesh Companies Act (1994);
- (b) "Memorandum and Articles of Association" means the Memorandum and Articles of Association of IDCOL, dated May 14, 1997, as amended to the date of this Agreement;
- (c) "Project Agreement" means the agreement between the Association and IDCOL 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;
- (d) "Agency and Administration Agreement" means the agreement to be entered into between the Borrower and IDCOL 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 and agreements supplemental to the Agency and Administration Agreement;
- (e) "Brochure" means the brochure, referred to in paragraph 2 of Schedule 5 to this Agreement, describing the Borrower's policies and procedures for private sector participation in selected sectors, as the same may be amended from time to time;
- (f) "Operations Manual" means the operations manual for IDCOL which sets out the guidelines for appraisal, approval and supervision of Investment Projects;
- (g) "Subloan" means a loan made or proposed to be made by IDCOL out of the proceeds of the Credit to an Investment Enterprise for an Investment Project;
- (h) "Investment Enterprise" means an enterprise to which IDCOL proposes to make or has made a Subloan;
- (i) "Investment Project" means a specific development project in selected sub-sectors of the infrastructure sector to be carried out by an Investment Enterprise utilizing the proceeds of a Subloan;
- (j) "Special Accounts" means both of the accounts referred to in Section 2.02(b) of this Agreement;
- (k) "Repayment Account" means the account referred to in Section 2.02(c) of this Agreement; and
- (l) "TK" and "Taka" mean the currency of the Borrower.

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 one hundred sixty-eight million six hundred thousand Special Drawing Rights (SDR 168,600,000).

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 may, for the purposes of each of Part A and Part B of the Project, open and maintain in dollars two special deposit accounts, being Special Account A for Part A.2 of the Project and Special Account B for Part B of the Project, in Bangladesh Bank 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 6 to this Agreement.

(c) The Borrower shall cause the Bangladesh Bank to open and maintain on its books an account in Taka in the name of Repayment Account on terms and conditions satisfactory to the Association, including, inter alia, those stipulated in the Agency and Administration Agreement, for the purpose of receiving the proceeds of repayments of principal of Subloans and interest thereon paid by Investment Enterprises in respect of Subloans. The proceeds of repayments of principal of Subloans and interest thereon shall be retained in the Repayment Account for the purposes of meeting IDCOL's operating expenses and future lending operations, to the extent that such proceeds are not required by the Borrower to meet its debt service obligations under this Agreement.

Section 2.03. The Closing Date shall be December 31, 2002 or such later date as the Association shall establish. The Association shall promptly notify the Borrower and IDCOL 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 canceled; 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 May 1 and November 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 semiannual installments payable on each May 1 and November 1 commencing November 1, 2007 and ending May 1, 2037. Each installment to and including the installment payable on May 1, 2017 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 per capita gross national product (GNP), as determined by the Association, shall have exceeded for three consecutive years the level established annually by the Association for determining eligibility to access the Association's resources; 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 repayment of installments under paragraph (a) above by: (A) 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; and (B) requiring the Borrower to commence repayment of the principal amount of the Credit as of the first semiannual payment date referred to in paragraph (a) above falling six months or more after the date on which the Association notifies the Borrower that the events set out in this paragraph (b) have occurred, provided, however, that there shall be a grace period of a minimum

of five years on such repayment of principal. (c) If so requested by the Borrower, the Association may revise the modification referred to in paragraph (b) above 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.

(d) 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.

Section 2.09. The Executive Director of IDCOL is designated as representative of the Borrower in respect of Part A of the Project for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objective of the Project as set forth in Schedule 2 to this Agreement, and, to this end:

(i) shall carry out Part B of the Project with due diligence and efficiency and in conformity with appropriate administrative and financial practices and shall provide, promptly as needed, the funds, facilities, services and other resources required for Part B of the Project; and

(ii) without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, shall cause IDCOL to perform in accordance with the provisions of the Project Agreement all the obligations of IDCOL 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 IDCOL to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) Without limitation upon the provisions of paragraph (a) of this Section, and except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out, or cause to be carried out, the Project in accordance with the Implementation Program set forth in Schedule 5 to this Agreement.

(c) To assist in carrying out Part A of the Project, the Borrower shall make available the proceeds of the Credit allocated from time to time to Categories 1 and 2 of the table set forth in paragraph 1 of Schedule 1 to this Agreement to IDCOL under an Agency and Administration Agreement to be entered into between the Borrower and IDCOL under terms and conditions which shall have been approved by the Association, which shall include those set forth or referred to in Schedule 1 to the Project Agreement.

(d) The Borrower shall exercise its rights under the Agency and Administration 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 Agency and Administration 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 Part B of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 4 to this 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 IDCOL in respect of Part A of the Project pursuant to Section 2.04 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 B of the Project of the departments or agencies of the Borrower responsible for carrying out Part B of 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 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, 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 and 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 report 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) IDCOL shall have failed to perform any of its obligations under the Project Agreement or the Agency and Administration 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 IDCOL will be able to perform its obligations under the Project Agreement or the Agency and Administration Agreement;

(c) The Memorandum and Articles of Association shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the operations or financial condition of IDCOL or its ability to carry out the Project or

to perform any of its obligations under the Project Agreement or the Agency and Administration Agreement;

(d) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of IDCOL or for the suspension of its operations; or

(e) (i) Subject to subparagraph (ii) of this paragraph: (A) the right of the Borrower to withdraw the proceeds of any of the Cofinancing Funds shall have been suspended, canceled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor, or (B) any loan included in the Cofinancing Funds 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.

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 IDCOL;

(b) any event specified in paragraphs (c) or (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 events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) IDCOL has selected an Investment Advisor, satisfactory to the Association, to act as the exclusive Investment Advisor to IDCOL and to provide services in connection with IDCOL's operations;

(b) a full-time chief executive officer, satisfactory to the Association, has been selected by IDCOL;

(c) the Agency and Administration Agreement has been entered into by the Borrower and IDCOL, respectively; and

(d) all conditions precedent to the effectiveness of the Cofinancing Agreements, other than the effectiveness of this Agreement, have been fulfilled.

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 IDCOL, and is legally binding upon IDCOL in accordance with its terms; and

(b) that the Agency and Administration Agreement has been duly authorized or ratified by, and is legally binding upon the Borrower and IDCOL 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

Representatives of the Borrower; Addresses

Section 7.01. The Secretary or any Additional Secretary, Joint Secretary, Deputy Secretary, Senior Assistant Secretary or Assistant Secretary of the Economic Relations Division of the Ministry of Finance 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:

Economic Relations Division
Ministry of Finance
Government of the People's Republic
of Bangladesh
Dhaka, Bangladesh

| | |
|----------------------|----------------------------------|
| Cable address: | Telex: |
| BAHIRSAMPAD Dhaka | 642226 SETU BJ 672796 SETU BJ |

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

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.

PEOPLE'S REPUBLIC OF BANGLADESH

By /s/ Quazi Mesbahuddin Ahmed

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Manuel Penalver-Quesada

Acting Regional Vice President
South Asia

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) Part A.1 of the Project: | 161,400,000 | |
| (a) Works | | 100% of foreign expenditures and 85% of local expenditures |
| (b) Equipment | | 100% of foreign expenditures and 100% of local expenditures (ex-factory cost) |
| (c) Interest and other charges on Subloans accrued during the construction of Investment Project | | 100% of amounts capitalized pursuant to Schedule 1, Part B 1 (f) of the Project Agreement |
| (d) All risks and marine insurance | | 100% of foreign expenditures |
| (2) Part A.2 of the Project | | |
| (a) Equipment | 360,000 | 100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 80% of local expenditures for other items procured locally |
| (b) Consultants' services | 4,670,000 | 100% |
| (3) Part B of the Project: | | |
| (a) Consultants' services and training | 1,080,000 | 100% |
| (b) Equipment and materials | 220,000 | 100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 70% of other items procured locally |
| (c) Staff and administrative costs | 220,000 | 100% through June 30, 2000, thereafter 70% through June 30, 2001 |
| (4) Unallocated | 650,000 | |
| TOTAL | 168,600,000 | |

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;

(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; and

(c) the term "staff and administrative costs" means the salaries and allowances of staff employed under contract by IDCOL for the purposes of the Project, and IDCOL's office operating expenses.

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

(a) expenditures under Category (1) for works, goods, insurance and other services under a Subloan unless: (i) such Subloan has been made in accordance with the procedures and on the terms and conditions set forth or referred to in Schedule 1 to the Project Agreement; (ii) a full-time chief executive officer, satisfactory to the Association, has been appointed to IDCOL; and (iii) an Investment Advisor, satisfactory to the Association, has been appointed to act as the exclusive Investment Advisor to IDCOL and an Investment Advisory Agreement has been executed between IDCOL and such Investment Advisor, in form and substance satisfactory to the Association; and

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

4. The Association may require withdrawals from the Credit Account in respect of the Project to be made on the basis of statements of expenditure for expenditures for Subloans under \$1,000,000 equivalent, goods under contracts costing less than \$50,000 equivalent, and consultants' services under contracts not exceeding the equivalent of \$100,000, in the case of firms, and \$50,000, in the case of individuals, and for all training and incremental staff costs, under such terms and conditions as the Association shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objective of the Project is to assist the Borrower in developing a modern and efficient system of infrastructure in the Borrower's territory by promoting private sector participation, inter alia, in the investment, operation, ownership and maintenance of infrastructure facilities.

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 objective:

Part A: Investment Projects and Institutional Strengthening

1. Financing by IDCOL of Investment Projects through the provision of Subloans to Investment Enterprises.

2. Provision of equipment, materials, technical and other assistance for strengthening IDCOL through, inter alia, the provision of investment advisory and related administrative services.

Part B: Institution and Capacity Building

Provision of equipment, materials, technical and other assistance for development and operation of an Infrastructure Investment Facilitation Center to assist the concerned agencies of the Borrower in the (i) preparation of individual subprojects suitable for private sector investment and participation and (ii) developing sectoral policy and regulations relating to infrastructure.

* * *

The Project is expected to be completed by June 30, 2002.

SCHEDULE 3

Modifications of General Conditions

For the purpose of this Agreement, the provisions of the General Conditions are modified as follows:

1. The last sentence of Section 3.02 is deleted.

2. The following subparagraph is added to Section 2.01:

"15. The term "Project Agreement" has the meaning set forth in paragraph (c) of Section 1.02 of the Development Credit Agreement."

3. The second sentence of Section 5.01 is modified to read:

"Except as the Borrower and the Association shall otherwise agree, no withdrawals shall be made: (a) on account of expenditures in the territories of any country which is not a member of the Bank or for goods produced in, or services supplied from, such territories; or (b) for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the Association, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

4. Section 6.03 is modified to read:

"Section 6.03. Cancellation by the Association. If (a) the right of the Borrower to make withdrawals from the Credit Account shall have been suspended with respect to any amount of the Credit for a continuous period of thirty days, or (b) at any time, the Association determines, after consultation with the Borrower, that an amount of the Credit will not be required to finance the Project's costs to be financed out of the proceeds of the Credit, or (c) at any time, the Association determines, with respect to any contract to be financed out of the proceeds of the Credit, that corrupt or fraudulent practices were engaged in by representatives of the Borrower or of a beneficiary of the Credit during the procurement or the execution of such contract, without the Borrower having taken timely and appropriate action satisfactory to the Association to remedy the situation, and establishes the amount of expenditures in respect of such contract which would otherwise have been eligible for financing out of the proceeds of the Credit, or (d) at any time, the Association determines that the procurement of any contract to be financed out of the proceeds of the Credit is inconsistent with the procedures set forth or referred to in the Development Credit Agreement and establishes the amount of expenditures in respect of such contract which would otherwise have been eligible for financing out of the proceeds of the Credit, or (e) after the Closing Date, an amount of the Development Credit shall remain unwithdrawn from the Credit Account, or (f) by the date specified in paragraph 4(b) of Part B of Schedule 1 to the Project Agreement, the Association shall, in respect of any portion of the Credit: (i) have received no applications or requests permitted under subparagraph (a) of said paragraph; or (ii) have denied any such applications or requests, the Association may, by notice to the Borrower, terminate the right of the Borrower to submit such applications or requests or to make withdrawals from the Credit Account, as the case may be, with respect to such amount or portion of the Credit. Upon the giving of such notice, such amount or portion of the Credit shall be canceled."

SCHEDULE 4

Procurement

Section I. Procurement of Goods

Part A: General

Goods required for Part B of the Project shall be procured in accordance with the provisions of Section I of the "Guidelines for Procurement under IBRD Loans and IDA Credits," published by the Bank in January 1995 and revised in January and August 1996 (the Guidelines) and the following provisions of this Section, as applicable.

Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower and to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

Part C: Other Procurement Procedures

1. National Shopping

Equipment and materials required for Part B of the Project estimated to cost \$50,000 equivalent or less per contract and \$250,000 equivalent or less in the aggregate, may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

Part D: Review by the Association of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for Part B of the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract under Part B of the Project estimated to cost the equivalent of more than \$50,000, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

Part A: General

Consultants' services required for Part B of the Project shall be procured in accordance with the provisions of the Introduction and Section IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 (the Consultant Guidelines).

Part B: Review by the Association of the Selection of Consultants

1. Selection Planning Prior to the issuance to consultants of any requests for proposals, the proposed plan for the selection of consultants under Part B of the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Consultant Guidelines. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

2. Prior Review

(a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of \$100,000 or more, the procedures set forth in paragraphs 1, 2 (other than the third subparagraph of paragraph 2(a)) and 5 of Appendix 1 to the Consultant Guidelines shall apply.

(b) With respect to each contract for the employment of individual consultants estimated to cost the equivalent of \$50,000 or more, the qualifications, experience, terms of reference and terms of employment of the consultants shall be furnished to the Association for its prior review and approval. The contract shall be awarded only after the said approval shall have been given.

3. Post Review

With respect to each contract not governed by paragraph 1 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

Implementation Program

1. Financing of Investment Projects and Institutional Strengthening

For the purposes of Part A of the Project, the Borrower shall make available to IDCOL the proceeds of the Credit allocated from time to time to Categories 1 and 2 of the table set forth in paragraph 1 of Schedule 1 to this Agreement under the Agency and Administration Agreement referred to in Section 3.01(c) of this Agreement.

2. Brochure

The Borrower shall make available to Investment Enterprises a Brochure, in substance satisfactory to the Association, inter alia, describing the policy and procedures for private sector participation in selected subsectors of the infrastructure sector (including the measures set forth or referred to in paragraph 3 below).

3. Contractual Framework for Implementing Investment Projects

In order to clearly lay down the mutual rights and obligations of the Borrower, IDCOL, the Investment Enterprise and the latter's lenders/creditors, the Borrower shall, or shall cause the concerned agencies to, with respect to each Investment Project:

- (i) where the Investment Enterprise is selected under international competitive bidding procedures, and prior to such bidding, provide information about the availability of financing for the Investment Project and the terms and conditions under which it would be available;
- (ii) where the Investment Enterprise is not selected pursuant to the process described in subparagraph (i) above, and prior to finalizing the terms and conditions of the Investment Project, provide information about the availability of financing for the Investment Project and the terms and conditions under which it would be available;
- (iii) after approval of the Investment Project by the Borrower or the concerned agency, as the case may be, issue to the Investment Enterprise a letter of intent conveying the Borrower's or the concerned agency's preliminary approval of the proposal for the Investment Project as a condition for the Investment Enterprise to prepare and submit a detailed project information memorandum for the Investment Project to IDCOL pursuant to the provisions of Part A, paragraph 3 (b) of Schedule 1 to the Project Agreement;
- (iv) require the Investment Enterprise to enter into the following agreements, each in form and substance satisfactory to the Association:
 - (a) an Implementation Agreement with the Borrower superseding the letter of intent referred to in (i) above and setting forth the obligations of the Investment Enterprise, particularly with respect to the financing, design, construction, and operation and maintenance of the Investment Project within mutually agreed parameters and to mutually acceptable standards;
 - (b) a Purchase Agreement, if applicable, between an Investment Enterprise and the purchaser of the services provided by the Investment Project, setting forth the obligations of the Investment Enterprise, particularly with respect to the operation of the Investment Project at mutually acceptable standards, and the obligations of the purchaser, particularly with respect to the purchase of a guaranteed minimum of the services provided by the Investment Project, the purchase price of such services, and the adjustment of such price in accordance with agreed adjustments indices to reflect changes in prices of inputs and exchange rate movements;
 - (c) a Construction Agreement between an Investment Enterprise and a contractor responsible for the construction and commissioning of the Investment Project, and performance guarantee furnished by the contractor;
 - (d) an Operation and Maintenance Agreement with the operator (if other than the Investment Enterprise itself) of the Investment Project, approved by the Borrower

and setting forth the obligations of the operator, particularly with respect to the operation of the Investment Project to the standards specified in the Implementation Agreement referred to in (a) above and in the Purchase Agreement referred to in (b) above, and including a performance guarantee furnished by the operator;

(e) a Supply Agreement, to the extent relevant, required by the Investment Project setting forth the obligations of the supplier, particularly with respect to the quality, quantity and frequency of supplies, and the penalties for inadequate performance of such obligations; and

(f) other agreements, including a Shareholders' Agreement (setting forth the rights and obligations of the shareholders of the Investment Enterprise), a Loan Agreement or Agreements (setting forth the obligations of the Investment Enterprise towards its lenders/creditors) and an Escrow Agreement (establishing and providing for a debt service escrow and other escrow accounts, if necessary, which shall at all times hold sufficient funds to meet debt service payments in respect of the Investment Project).

4. Infrastructure Investment Facilitation Center

The Borrower shall:

(a) prepare and furnish to the Association by February 1, 1998 for its approval, a report on the modalities of establishing the Infrastructure Investment Facilitation Center (hereinafter called IIFC); its organization and staffing, scope of work and terms of reference, and proposed remuneration and benefit package for the staff, as well as a plan of implementation for establishment of the IIFC, a short list of candidates for the Director of the IIFC and its proposed program over the next three years;

(b) promptly after obtaining the approval of the Association in accordance with paragraph 3(a) above, appoint the Director of the IIFC and take all measures necessary for the establishment and commencement of business of the IIFC;

(c) cause the Director of the IIFC to prepare and submit to the Association proposals for engaging the various technical assistance advisory services required for the conduct of the IIFC's business, no later than March 1, 1998; and

(d) thereafter implement such proposals as the Association shall have approved.

5. Monitoring and Evaluation

The Borrower shall:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Association, the carrying out of the Project and the achievement of the objective thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about September 30, 1999, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objective thereof during the period following such date; and

(c) review with the Association, by December 31, 1999, or such later date as the Association shall request, the report referred to in subparagraph (b) of this paragraph, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objective thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.

SCHEDULE 6

Special Accounts

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means, in the case of Special Account A,

Category (2) and, in the case of Special Account B, Category (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 \$700,000 in respect of Special Account A and an amount equivalent to \$200,000 in respect of Special Account B, both such amounts to be withdrawn from the Credit Account and deposited into the respective Special Accounts pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation for: (i) Special Account A shall be limited to an amount equivalent to \$300,000 until the aggregate amount of withdrawals from the Credit Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Part A of the Project shall be equal to or exceed the equivalent of SDR 2,000,000; and for (ii) Special Account B shall be limited to an amount equivalent to \$100,000 until the aggregate amount of withdrawals from the Credit Account plus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions for Part B of the Project shall be equal to or exceed the equivalent of SDR 800,000.

2. Payments out of the respective 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 respective Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the respective 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 deposit into the respective Special Account of an amount or amounts 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 Account 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 the respective 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 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 respective Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Category, 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 respective 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 any 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;

(b) if the Borrower shall have failed to furnish to the Association, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Association pursuant to said Section in respect of the audit of the records and accounts for the Special Accounts;

(c) if, at any time, the Association shall have notified the Borrower of its intention to suspend in whole or in part the right of the Borrower to make withdrawals from the Credit Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the Credit allocated to the eligible Categories for the respective Special Account, minus the total amount of all outstanding special commitments entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to, in the case of Special Account A, Part A of the Project and, in the case of Special Account B, Part B of 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 for the respective Special Account 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 such 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 any 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 respective 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 such 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 a 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 a 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.

