

Public Disclosure Authorized

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GRANT NUMBER H535-0-HT

Financing Agreement

(Third Economic Governance Reform Development Policy Financing)

between

REPUBLIC OF HAITI

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated December 16, 2009

Public Disclosure Authorized

FINANCING AGREEMENT

Agreement dated December 16, 2009, entered into between REPUBLIC OF HAITI (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) for the purpose of providing financing in support of the Program (as defined in the Appendix to this Agreement). The Association has decided to provide this financing on the basis, *inter alia*, of: (a) the actions which the Recipient has already taken under the Program and which are described in Section I of Schedule 1 to this Agreement; and (b) the Recipient’s maintenance of an appropriate macro-economic policy framework. The Recipient and the Association therefore hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

ARTICLE II — FINANCING

- 2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a grant in an amount equivalent to eight million Special Drawing Rights (SDR 8,000,000) (“Financing”).
- 2.02. The Recipient may withdraw the proceeds of the Financing in support of the Program in accordance with Section II of Schedule 1 to this Agreement.
- 2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.
- 2.04. The Payment Dates are June 15 and December 15 in each year.
- 2.05. The Payment Currency is Dollars.

ARTICLE III — PROGRAM

- 3.01. The Recipient declares its commitment to the Program and its implementation. To this end:

- (a) the Recipient and the Association shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program;
- (b) prior to each such exchange of views, the Recipient shall furnish to the Association for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Association shall reasonably request; and
- (c) without limitation upon the provisions of paragraphs (a) and (b) of this Section, the Recipient shall promptly inform the Association of any situation that would have the effect of materially reversing the objectives of the Program or any action taken under the Program, including any action specified in Section I of Schedule 1 to this Agreement.

ARTICLE IV — REMEDIES OF THE ASSOCIATION

4.01. The Additional Events of Suspension consist of the following:

- (a) A situation has arisen which shall make it improbable that the Program, or a significant part of it, will be carried out.
- (b) The Recipient's macroeconomic policy framework has become inconsistent with the objectives of the Program.
- (c) An action has been taken or a policy has been adopted to reverse any action or policy under the Program in a manner that would, in the opinion of the Association, adversely affect the achievement of the objectives of the Program.
- (d) An action has been taken or a policy has been adopted to reverse any action listed in Section I of Schedule 1 to this Agreement.

ARTICLE V — EFFECTIVENESS; TERMINATION

5.01. Without prejudice to the provisions of the General Conditions, the Effectiveness Deadline is the date ninety (90) days after the date of this Agreement, but in no case later than the eighteen (18) months after the Association's approval of the Financing which expire on June 8, 2011.

ARTICLE VI — REPRESENTATIVE; ADDRESSES

6.01. The Recipient's Representative is its Minister of Economy and Finance.

6.02. The Recipient's Address is:

Ministère de l'Economie et des Finances
Palais des Ministères
Port-au-Prince
Republic of Haiti

Facsimile: (509) 22 99 17 32

6.03. The Association's Address is:

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

Cable address:

Telex:

Facsimile:

INDEVAS
Washington, D.C.

248423(MCI)

1-202-477-6391

AGREED at the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF HAITI

By /s/ Raymond Joseph

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Yvonne M. Tsikata

Authorized Representative

SCHEDULE 1

Program Actions; Availability of Financing Proceeds

Section I. Actions Taken Under the Program

The actions taken by the Recipient under the Program include the following:

1. Fiscal Policy

In order to promote efficiency in public resource use by improving the financial situation and management of EDH, the Recipient has caused EDH to design, publicize and start implementing a cost recovery policy which includes:

- (a) the launching of an electricity tariff increase; and
- (b) the competitive appointment of a provider of new customer and technical management systems in EDH.

2. Public Financial Management

In order to improve: (a) revenue collection and mobilization; and (b) efficiency and transparency in public financial management, the Recipient has:

- (i) carried out, in MEF's Customs Directorate ("*Administration Générale des Douanes*"), the operationalization of a new customs information system in 11 key customs posts of the Recipient's territory, namely, *Port-au-Prince* port, *Port-au-Prince* airport and airport arrivals hall, *Cap Haïtien*, *Gonaives*, *Saint Marc*, *Miragoane*, *Malpasse*, *Ouanaminthe*, *Belladere* and *Port de Paix*;
- (ii) completed in MEF's General Directorate of Taxes ("*Direction Générale des Impôts*") the establishment and operationalization of a networked information system linking all said directorate's departmental offices and units (*Direction Départementales des Impôts*) among them;
- (iii) completed the interconnection of the respective information systems operated in MEF's Customs Directorate and General Directorate of Taxes; and
- (iv) carried out the critical staffing of its General Financial Inspectorate (*Inspection Générale des Finances*) to enable the start of internal audit operations.

3. Public Procurement

In order to improve efficiency in public spending, the Recipient has, through its executive branch, and pursuant to the Law dated June 10, 2009 which sets forth revised public procurement rules, issued on October 28, 2009, the following four key implementing decrees (*arrêtés d'application*), covering respectively: (a) the thresholds in respect of public procurement; (b) the institutional rules and procedures for the Recipient's public procurement entity ("*Commission Nationale des Marchés Publics*"); (c) the general rules regarding public procurement and public service concessions; and (d) the adoption of the manual of procedures for public procurement and the mandate for its general application.

Section II. Availability of Financing Proceeds

A. General. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of this Section and such additional instructions as the Association may specify by notice to the Recipient.

B. Allocation of Financing Amounts. The Financing shall be withdrawn in a single tranche. The allocation of the amounts of the Financing to this end is set out in the table below:

<u>Allocations</u>	Amount of the Financing Allocated (expressed in SDR)
Single Tranche	8,000,000
TOTAL AMOUNT	8,000,000

C. Deposits of Financing Amounts.

1. The Recipient shall open, prior to furnishing to the Association the first request for withdrawal from the Financing Account, and thereafter maintain the following two deposit accounts ("Deposit Accounts") on terms and conditions satisfactory to the Bank:

- (a) a deposit account in Dollars ("Foreign Currency Deposit Account"); and
- (b) a deposit account in Gourdes ("Local Currency Deposit Account").

2. All withdrawals from the Financing Account shall be deposited by the Association into the Foreign Currency Deposit Account. Upon each deposit of an amount of the Financing into the Foreign Currency Deposit Account, the Recipient shall deposit an equivalent amount into the Local Currency Deposit Account. All and any amounts withdrawn from the Local Currency Deposit Account shall be used for Recipient's expenditures except the Excluded Expenditures.
- D. Audit.** Upon the Association's request, the Recipient shall:
1. have the Deposit Account audited by independent auditors acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association;
 2. furnish to the Association as soon as available, but in any case not later than four months after the date of the Association's request for such audit, a certified copy of the report of such audit, of such scope and in such detail as the Association shall reasonably request; and
 3. furnish to the Association such other information concerning the Deposit Account and its audit as the Association shall reasonably request.
- E. Excluded Expenditures.** The Recipient undertakes that the proceeds of the Financing shall not be used to finance Excluded Expenditures. If the Association determines at any time that an amount of the Financing was used to make a payment for an Excluded Expenditure, the Recipient shall, promptly upon notice from the Association, refund an amount equal to the amount of such payment to the Association. Amounts refunded to the Association upon such request shall be cancelled.
- F. Closing Date.** The Closing Date is December 31, 2010.

APPENDIX

Section I. Definitions

1. “Customs Directorate” means “*Administration Générale des Douanes*”, a directorate of MEF responsible for customs revenue collection and administration in the territory of the Recipient.
2. “Deposit Accounts” means both the Foreign Currency Deposit Account and the Local Currency Deposit Account, (both as hereinafter defined).
3. “EDH” means *Electricité d’Haïti*, the Recipient’s power utility, established through *Décret* (decree) signed and published by the Recipient’s executive branch on August 20, 1989.
4. “Excluded Expenditure” means any expenditure:
 - (a) for goods or services supplied under a contract which any national or international financing institution or agency other than the Association or the Bank has financed or agreed to finance, or which the Association or the Bank has financed or agreed to finance under another credit, grant or loan;
 - (b) for goods included in the following groups or sub-groups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Recipient:

Group	Sub-group	Description of Item
112		Alcoholic beverages
121		Tobacco, un-manufactured, tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitutes)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors
728	728.43	Tobacco processing machinery

897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971		Gold, non-monetary (excluding gold ores and concentrates)

- (c) for goods intended for a military or paramilitary purpose or for luxury consumption;
 - (d) for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Recipient or international agreements to which the Recipient is a party;
 - (e) on account of any payment prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and
 - (f) with respect to which the Association determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Recipient or other recipient of the Financing proceeds, without the Recipient (or other such recipient) having taken timely and appropriate action satisfactory to the Association to address such practices when they occur.
5. "Foreign Currency Deposit Account" means the account referred to in Section II.C.1 (a) of Schedule 1 to this Agreement.
 6. "General Conditions" means the "International Development Association General Conditions for Credits and Grants", dated July 1, 2005 (as amended through October 15, 2006) with the modifications set forth in Section II of this Appendix.
 7. "General Directorate of Taxes" means "*Direction Générale des Impôts*", a directorate of MEF responsible for domestic tax collection and administration in the territory of the Recipient.
 8. "Gourde" means the Recipient's lawful currency.
 9. "Local Currency Deposit Account" means the account referred to in Section II.C.1 (b) of Schedule 1 to this Agreement.

10. “MEF” means *Ministère de L’Economie et des Finances*, the Recipient’s Ministry of Economy and Finance or, depending upon the context, the minister in charge of said ministry.
11. “Program” means the program of actions, objectives and policies designed to promote growth and achieve sustainable reductions in poverty and set forth or referred to in the letter dated October 30, 2009, from the Recipient to the Association, declaring the Recipient’s commitment to the execution of the Program, and requesting assistance from the Association in support of the Program during its execution.
12. “Single Tranche” means the amount of the Financing allocated to the category entitled “Single Tranche” in the table set forth in Part B of Section II of Schedule 1 to this Agreement.

Section II. Modifications to the General Conditions

The modifications to the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006) are as follows:

1. The last sentence of paragraph (a) of Section 2.03 (relating to Applications for Withdrawal) is deleted in its entirety.
2. Sections 2.04 (*Designated Accounts*) and 2.05 (*Eligible Expenditures*) are deleted in their entirety, and the remaining Sections in Article II are renumbered accordingly.
3. Section 2.05 (renumbered as such pursuant to paragraph 2 above) is modified to read as follows:

“Section 2.05. *Refinancing Preparation Advance*

If the Financing Agreement provides for the repayment out of the proceeds of the Financing of an advance made by the Association or the Bank (“Preparation Advance”), the Association shall, on behalf of the Recipient, withdraw from the Financing Account on or after the Effective Date the amount required to repay the withdrawn and outstanding balance of the advance as at the date of such withdrawal from the Financing Account and to pay all accrued and unpaid charges, if any, on the advance as at such date. The Association shall pay the amount so withdrawn to itself or the Bank, as the case may be, and shall cancel the remaining unwithdrawn amount of the advance.”

4. Sections 4.01 (*Project Execution Generally*), and 4.09 (*Financial Management; Financial Statements; Audits*) are deleted in their entirety, and the remaining Sections in Article IV are renumbered accordingly.
5. Paragraph (a) of Section 4.05 (renumbered as such pursuant to paragraph 4 above and relating to *Use of Goods, Works and Services*) is deleted in its entirety.
6. Paragraph (c) of Section 4.06 (renumbered as such pursuant to paragraph 4 above) is modified to read as follows:

“Section 4.06. *Plans; Documents; Records*

... (c) The Recipient shall retain all records (contracts, orders, invoices, bills, receipts and other documents) evidencing expenditures under the Financing until two years after the Closing Date. The Recipient shall enable the Association’s representatives to examine such records.”

7. Paragraph (c) of Section 4.07 (renumbered as such pursuant to paragraph 4 above) is modified to read as follows:

“Section 4.07. *Program Monitoring and Evaluation*

... (c) The Recipient shall prepare, or cause to be prepared, and furnish to the Association not later than six months after the Closing Date, a report of such scope and in such detail as the Association shall reasonably request, on the execution of the Program, the performance by the Recipient and the Association of their respective obligations under the Legal Agreements and the accomplishment of the purposes of the Financing.”

8. The following terms and definitions set forth in the Appendix are modified or deleted as follows, and the following new terms and definitions are added in alphabetical order to the Appendix as follows, with the terms being renumbered accordingly:

- (a) The definition of the term “Eligible Expenditure” is modified to read as follows:

“‘Eligible Expenditure’ means any use to which the Financing is put in support of the Program, other than to finance expenditures excluded pursuant to the Financing Agreement.”

- (b) The term “Financial Statements” and its definition as set forth in the Appendix are deleted in their entirety.

- (c) The term “Project” is modified to read “Program” and its definition is modified to read as follows:

“‘Program’ means the program referred to in the Financing Agreement in support of which the Financing is made.” All references to “Project” throughout these General Conditions are deemed to be references to “Program”.

- (d) The term “Program Preparation Advance” (renamed as such pursuant to subparagraph 8 (c) above) is modified to read “Preparation Advance” and its definition is modified to read as follows:

“‘Preparation Advance’ means the advance referred to in the Financing Agreement and repayable in accordance with Section 2.05.”