

CONFORMED COPY

AFRICAN FACILITY CREDIT NUMBER A-30 ZR

African Facility Credit
Agreement

(Structural Adjustment Credit)

between

REPUBLIC OF ZAIRE

and

INTERNATIONAL DEVELOPMENT ASSOCIATION
as ADMINISTRATOR of the
SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

Dated July 29, 1987

AFRICAN FACILITY CREDIT NUMBER A-30 ZR

AFRICAN FACILITY CREDIT AGREEMENT

AGREEMENT, dated July 29, 1987, between the REPUBLIC OF ZAIRE (the Borrower) and the INTERNATIONAL DEVELOPMENT ASSOCIATION as ADMINISTRATOR of the SPECIAL FACILITY FOR SUB-SAHARAN AFRICA (the Administrator).

WHEREAS (A) the Executive Directors of the International Development Association (IDA) have established by their Resolution No. IDA 85-1 of May 21, 1985, (the Resolution), a Special Facility for Sub-Saharan Africa (the African Facility) constituted by the funds which shall be contributed by the International Bank for Reconstruction and Development (the Bank) and other donors and administered by IDA, acting as Administrator of the African Facility, for the purpose of, and in accordance with, the provisions of the Resolution;

(B) the Administrator has received a letter, dated June 2, 1987 from the Borrower describing a program and calendar of actions, objectives and policies designed to achieve structural adjustment of the Borrower's economy

(hereinafter called the Program), declaring the Borrower's commitment to the execution of the Program, and requesting assistance from the Administrator in the financing of urgently needed imports required during such execution;

(C) the Borrower has also requested IDA to provide additional assistance towards the financing of the Program and, by an agreement of even date herewith between the Borrower and IDA (the Development Credit Agreement), IDA is agreeing to provide such assistance in an aggregate principal amount equivalent to forty-two million two hundred thousand Special Drawing Rights (SDR 42,200,000) (the IDA Credit);

(D) the Borrower also intends to receive additional financing for the Program from Japan in an amount equivalent to two billion two hundred million yen (Y 2,200,000,000) in the form of a grant (the Japanese Grant) in the amount of one billion one hundred million yen (Y 1,100,000,000) and a loan in the same amount; and

WHEREAS the Administrator has agreed on the basis, *inter alia*, of the foregoing, to extend to the Borrower, in support of the Program, the African Facility Credit in two tranches 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 International Development Association, dated January 1, 1985, with the modifications set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) the term "Association", when used in the General Conditions, means the International Development Association acting as Administrator of the African Facility, except in the phrase "member of the Association" in Sections 2.01 (5), 4.02 (b) and 6.02 (e) thereof;

(b) the terms "Development Credit Agreement", "Credit" and "Credit Account", when used in the General Conditions, are amended to read "African Facility Credit Agreement", "African Facility Credit" and "African Facility Credit Account", respectively;

(c) Section 2.01, paragraph 9, shall be modified to read:

"'Project' means the imports and other activities that may be financed out of the proceeds of the African Facility Credit pursuant to the provisions of Schedule 1 to the African Facility Credit Agreement.";

(d) the second sentence of Section 3.02 is deleted;

(e) the second sentence of Section 5.01 is deleted;

(f) in Sections 6.02 and 7.01, the term "Association" shall also include the International Development Association acting in its own capacity; and

(g) Section 9.06 (c) shall be modified to read:

"(c) Not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Administrator, the Borrower shall prepare and furnish to the Administrator a report, of such scope and in such detail as the Administrator shall reasonably request, on the execution of the program referred to in the Preamble to the African Facility Credit Agreement, the performance by the Borrower and the Administrator of their respective obligations under the African Facility Credit Agreement and the accomplishment of the purposes of the African Facility Credit."

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) "SITC" means the United Nations Standard International Trade Classification, 1974 Revision (SITC, Rev. 2), published in Commodity Indexes for the Standard International Trade Classification, Revised, Statistical Papers, Series M, No. 38/Rev. 2 (1981);

(b) "Zaires" and "Z" mean the currency of the Borrower; and

(c) "Special Account B" means the account referred to in Section 2.02 of this Agreement.

ARTICLE II

The African Facility Credit

Section 2.01. The Administrator agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the African Facility Credit Agreement, an amount in various currencies equivalent to seventy-two million two hundred thousand Special Drawing Rights (SDR 72,200,000).

Section 2.02. (a) The amount of the African Facility Credit may be withdrawn from the African Facility Credit Account in accordance with the provisions of this Section and of Schedule 1 to this Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and the Administrator.

(b) The Borrower shall, for the purposes of the Program, open and maintain in dollars a special account (Special Account B) in a commercial bank on terms and conditions satisfactory to the Administrator. Deposits into, and payments out of, Special Account B shall be made in accordance with the provisions of Schedule 2 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1988, or such later date as the Administrator shall establish. The Administrator shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to IDA a commitment charge at the rate of one-half of one percent (1/2 of 1%) per annum on the principal amount of the African Facility Credit not withdrawn from time to time. The commitment charge shall accrue from a date sixty days after the date of the African Facility Credit Agreement

to the respective dates on which amounts shall be withdrawn by the Borrower from the African Facility Credit Account or shall be cancelled.

(b) The commitment charge shall be paid: (i) at such places as IDA 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 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 IDA a service charge at the rate of three-fourths of one percent ($3/4$ of 1%) per annum on the amount withdrawn from the African Facility Credit Account and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on April 1 and October 1 in each year.

Section 2.07. The Borrower shall repay to IDA the principal amount of the African Facility Credit in semiannual installments payable on each April 1 and October 1, commencing October 1, 1997, and ending April 1, 2037. Each installment to and including the installment payable on April 1, 2007, shall be one-half of one percent ($1/2$ of 1%) of such principal amount, and each installment thereafter shall be one and one-half percent ($1-1/2\%$) of such principal amount.

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 Bank of Zaire is designated as representative of the Borrower 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, and the Borrower hereby entrusts the Bank of Zaire with responsibility for the preparation of withdrawal applications under the African Facility Credit and for the collection of the documents and other evidence to be furnished to the Administrator in support of such applications; such withdrawal applications shall to the extent practicable be consolidated so as to apply for withdrawal of aggregate amounts of not less than \$5,000,000 equivalent.

ARTICLE III

Particular Covenants

Section 3.01. (a) The Borrower and the Administrator shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program and on the actions specified in Schedule 4 to this Agreement.

(b) Prior to each such exchange of views, the Borrower shall furnish to the Administrator for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Administrator shall reasonably request.

Section 3.02. Except as the Administrator shall otherwise agree, procurement of the goods to be financed out of the proceeds of the African Facility Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. (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 financed out of the proceeds of the African Facility Credit.

(b) The Borrower shall:

- (i) have the accounts referred to in paragraph (a) of this Section, including Special Account B, audited for each fiscal year in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Administrator;
- (ii) furnish to the Administrator, as soon as available, but in any case not later than six 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 Administrator shall have reasonably requested; and
- (iii) furnish to the Administrator such other information concerning the said accounts and the audit thereof and said records as the Administrator shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the African Facility Credit Account and payments out of Special Account B 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, separate records and accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Administrator has received the audit report for the fiscal year in which the last withdrawal from the African Facility Credit Account or payment out of Special Account B was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Administrator's representatives to examine such records; and
- (iv) ensure that such separate accounts be included in the annual audit referred to in paragraph (b) of this Section and that the report thereof contain, in respect of such separate accounts, a separate opinion by said auditors as to whether the proceeds of the African Facility Credit withdrawn from the African Facility Credit Account or, paid out of Special Account B in respect of such expenditures were used for the purposes for which they were provided.

Section 3.04. The Borrower shall sell the foreign currencies disbursed from the African Facility Credit

Account to the purchasers of goods under the Program at the Kinshasa interbank rate or other market-determined rate.

ARTICLE IV

Remedies of the Administrator

Section 4.01. Pursuant to Section 6.02 (h) of the General Conditions, the following additional events are specified:

(a) an event has occurred which shall make it improbable that the Program, or a significant part thereof, will be carried out; and

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

(A) the right of the Borrower to withdraw the proceeds of any grant or loan made to the Borrower for the financing of the Program shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor; or

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

(ii) Subparagraph (i) of this paragraph shall not apply if the Borrower establishes to the satisfaction of the Administrator 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 Program are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 4.02. Pursuant to Section 7.01 (d) of the General Conditions, the following additional event is specified, namely, that the event specified in paragraph (b) (i) (B) of Section 4.01 of this Agreement shall occur.

ARTICLE V

Effective Date; Termination;
Designation of Administrator

Section 5.01. The following event is specified as an additional condition to the effectiveness of the African Facility Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions, namely, that all conditions precedent to the effectiveness of the Development Credit Agreement have been fulfilled.

Section 5.02. The date sixty (60) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

Section 5.03. In the event that the Executive

Directors of IDA decide to terminate the functions of IDA as Administrator of the African Facility pursuant to paragraph 10 of the Resolution, the Administrator may, by notice to the Borrower, designate another party which, on the date specified in such notice, shall assume part or all of the rights and obligations of the Administrator under this Agreement in accordance with the Resolution and such decision of the Executive Directors, as specified in such notice.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. Except as provided in Section 2.09 of this Agreement, the Commissioner of State of the Borrower responsible for finance 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:

Departement des Finances
Boite Postale No. 12997
Kinshasa 1
Republic of Zaire

Cable address:

DENFIN
Kinshasa

Telex:

21161 KIN/GOMBE

For the Administrator:

Administrator of the African Facility
(International Development Association)
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INDEVAS
Washington, D.C.

Telex:

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

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF ZAIRE

By /s/ NGUZ a KARL-I-BOND
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION
as ADMINISTRATOR of the SPECIAL FACILITY FOR
SUB-SAHARAN AFRICA

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

SCHEDULE I

Withdrawal of the Proceeds of the
African Facility Credit

1. Subject to the provisions set forth or referred to in this Schedule, the proceeds of the African Facility Credit may be withdrawn from the African Facility Credit Account for expenditures made (or, if the Administrator shall so agree, to be made) in respect of the reasonable cost of goods and services required during the execution of the Program and to be financed out of such proceeds; provided, however, that no such proceeds shall be used to finance the purchase of any goods not subject to verification as to quantity, payment and, except in cases of international competitive bidding, cost, by an inspection agency satisfactory to the Administrator.

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

(a) expenditures for goods included in the following SITC groups or sub-groups:

Group	Sub-group	Description of Items
112	-	Alcoholic beverages
121	-	Tobacco, unmanufactured tobacco refuse
122	-	Tobacco, manufactured
667	-	Pearls, precious and semi-precious stones, unworked or worked
688	-	Uranium depleted in U235 and thorium, and their alloys, unwrought or wrought, and articles therefor, n.e.s.; waste and scrap of uranium depleted in U235 and of thorium
718	718.7	Nuclear reactors, and parts thereof, n.e.s.
897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
-	971.0	Gold, non-monetary (excluding gold ores and concentrates)

(b) expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower;

(c) payments for expenditures made prior to the date of this Agreement;

(d) expenditures for goods procured under contracts costing less than \$20,000 equivalent;

(e) expenditures for goods supplied under a contract which any national or international financing institution or agency other than the Administrator shall have financed or agreed to finance;

(f) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption; or

(g) expenditures in excess of an aggregate amount equivalent to SDR 10,000,000 for petroleum products and foodstuffs.

3. No withdrawal shall be made and no commitment shall be entered into to pay amounts to the Borrower or others in respect of expenditures to be financed out of the proceeds of the African Facility Credit after the aggregate of the proceeds of the African Facility Credit withdrawn from the African Facility Credit Account and the total amount of such commitments shall have reached the equivalent of SDR 21,000,000, unless the Administrator shall be satisfied, after an exchange of views as described in Section 3.01 of this Agreement: (a) with the progress achieved by the Borrower in the carrying out of the Program; and (b) that the actions described in Schedule 5 to this Agreement have been taken.

4. If, after exchange of views, the Association is not so satisfied and this situation shall not be rectified by the Borrower within 90 days after notice thereof by the Association, then the Association may, by notice to the Borrower, cancel the amount of the Credit unwithdrawn from the Credit Account or any part thereof.

SCHEDULE 2

Special Account B

1. For the purposes of this Schedule:

(a) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required during the execution of the Program and to be financed out of the proceeds of the African Facility Credit in accordance with the provisions of Schedule I to this Agreement; and

(b) the term "Authorized Allocation" means an amount of \$20,000,000 to be withdrawn from the African Facility Credit Account and deposited into Special Account B pursuant to paragraph 3 (a) of this Schedule.

2. Except as the Administrator shall otherwise agree, payments out of Special Account B shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Administrator has received evidence satisfactory to it that Special Account B has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish Special Account B may be made as follows:

(a) On the basis of a request or requests by the Borrower for a deposit or deposits which add up to the Authorized Allocation, the Administrator shall, on behalf of the Borrower, withdraw from the African Facility

Credit Account and deposit into Special Account B such amount or amounts as the Borrower shall have requested.

(b) The Borrower shall furnish to the Administrator requests for replenishment of Special Account B at such intervals or in such minimum amounts as the Administrator shall specify. On the basis of such requests, the Administrator shall withdraw from the African Facility Credit Account and deposit into Special Account B such amounts as shall be required to replenish Special Account B with amounts not exceeding the amount of payments made out of Special Account B for eligible expenditures. Each such deposit shall be withdrawn by the Administrator from the African Facility Credit Account in the respective equivalent amounts as shall have been justified by the evidence supporting the request for such deposit furnished pursuant to paragraph 4 of this Schedule.

4. For each payment made by the Borrower out of Special Account B, the Borrower shall furnish to the Administrator such documents and other evidence as the Administrator shall reasonably request, showing that such payment was made for eligible expenditures.

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

- (i) the Administrator shall have determined that all further withdrawals should be made by the Borrower directly from the African Facility Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or
- (ii) the total unwithdrawn amount of the African Facility Credit, minus the amount of any outstanding special commitment entered into by the Administrator pursuant to Section 5.02 of the General Conditions, shall be equal to the equivalent of twice the amount of the Authorized Allocation.

(b) Thereafter, withdrawal from the African Facility Credit Account of the remaining unwithdrawn amount of the African Facility Credit shall follow such procedures as the Administrator shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Administrator shall have been satisfied that all such amounts remaining on deposit in Special Account B as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Administrator shall have determined at any time that any payment out of Special Account B: (i) was made for any expenditure or in any amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not Justified by the evidence furnished pursuant to paragraph 4 of this Schedule, the Borrower shall, promptly upon notice from the Administrator, deposit into Special Account B (or, if the Administrator shall so request, refund to the Administrator) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. No further deposit by the Administrator into Special Account B shall be made until the Borrower has made such deposit or refund.

(b) If the Administrator shall have determined at

any time that any amount outstanding in Special Account B will not be required to cover further payments for eligible expenditures, the Borrower shall-, promptly upon notice from the Administrator, refund to the Administrator such outstanding amount for crediting to the African Facility Credit Account.

SCHEDULE 3

Procurement

1. Contracts for the procurement of goods estimated to cost the equivalent of \$1,000,000 or more each shall be awarded through international competitive bidding in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1985 (the Guidelines), subject to the following modifications:

(a) All references in the Guidelines to the Bank and to loans shall be deemed to be references to the Administrator and to the African Facility Credit, respectively.

(b) Paragraph 2.8 of the Guidelines is deleted and the following is substituted therefor:

"2.8 Notification and Advertising

The international community should be notified in a timely manner of the opportunity to bid. This will be done by advertising invitations to apply for inclusion in a bidder's invitation list, to apply for prequalification, or to bid; such advertisements should be placed in at least one newspaper of general circulation in the Borrower's country and, in addition, in at least one of the following forms:

- (i) a notice in the United Nations publication, Development Forum, Business Edition; or
- (ii) an advertisement in a newspaper, periodical or technical journal of wide international circulation; or
- (iii) a notice to local representatives of countries and territories referred to in the Guidelines, that are potential suppliers of the goods required."

(c) The following is added at the end of paragraph 2.21 of the Guidelines:

"As a further alternative, bidding documents may require the bidder to state the bid price in a single currency widely used in international trade and specified in the bidding documents."

(d) Paragraphs 2.55 and 2.56 of the Guidelines are deleted.

2. Contracts for goods estimated to cost the equivalent of less than \$1,000,000 each shall be awarded on the basis of the normal procurement procedures of the purchaser of such goods, except that at least three quotations shall be invited by governmental purchasers unless there are fewer potential suppliers.

3. With respect to each contract referred to in paragraph 1 of this Schedule, the Borrower shall furnish to the Administrator, prior to the submission to the Administrator of the first application for withdrawal of funds from the African Facility Credit Account or payment out of Special Account B in respect of such contract, two conformed copies of such contract, together with the analysis of the respective bids and recommendations for award, a description of the advertising and tendering procedures followed and such other information as the Administrator shall reasonably request.

4. With respect to each contract referred to in paragraph 2 of this Schedule, the Borrower shall furnish to the Administrator, prior to the submission to the Administrator of the first application for withdrawal of funds from the African Facility Credit Account in respect thereof, such documentation and information as the Administrator may reasonably request to support withdrawal applications in respect of such contract.

5. Notwithstanding the provisions of paragraphs 3 and 4 of this Schedule, where payments under a contract are to be made out of the proceeds of Special Account B, the copies of such contract or the documentation and the information to be furnished to the Administrator pursuant to the provisions of paragraph 3 or paragraph 4 of this Schedule, as the case may be, shall be furnished to the Administrator as part of the evidence required under paragraph 4 of Schedule 2 to this Agreement.

6. The provisions of the preceding paragraphs 3, 4 and 5 shall not apply to contracts on account of which the Administrator has authorized withdrawals from the African Facility Credit Account or payments out of Special Account B on the basis of statements of expenditure.

SCHEDULE 4

Actions Referred to in paragraph 3 Clause (b) of Schedule I to this Agreement

1. Revision of macroeconomic framework for 1988-91 including the level and composition of the 1988-91 Public Investment Program;
 2. establishment of an oversight structure for supervision of public enterprises, and the appointment of its head;
 3. classification of enterprises to be maintained in state portfolio, liquidated or wholly or partially privatized;
 4. finalization of a restructuring and reorganization program for public enterprises remaining in the state portfolio; and
 5. completion of financial and administrative arrangements for the retirement of eligible public employees.
- 