

CONFORMED COPY

CREDIT NUMBER 2763 IN

Development Credit Agreement

(Bombay Sewage Disposal Project)

between

INDIA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated December 28, 1995

CREDIT NUMBER 2763 IN

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated December 28, 1995, between INDIA, acting by its President (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 has also requested the International Bank for Reconstruction and Development (the Bank) to provide additional assistance towards the financing of the Project and by an agreement of even date herewith between the Borrower and the Bank (the Loan Agreement), the Bank is agreeing to provide such assistance in an aggregate principal amount equivalent to one hundred sixty-seven million dollars (\$167,000,000) (the Loan);

(C) the Borrower and the Association intend, to the extent practicable, that the proceeds of the Credit provided for in this Agreement be disbursed on account of expenditures in respect of the Project before disbursements of the proceeds of the Loan provided for in the Loan Agreement are made;

(D) the Project will be carried out by the Municipal Corporation of Greater Bombay (the Corporation) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to the State of Maharashtra the proceeds of the Credit as provided for in this Agreement and the proceeds of the Loan as provided for in the Loan 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, in the Maharashtra Agreement of even date herewith among the Association, the Bank and the State of Maharashtra, and in the Project Agreement of even date herewith among the Association, the Bank and the Corporation;

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 thereto set forth below (the General Conditions) constitute an integral part of this Agreement:

- (a) The last sentence of Section 3.02 is deleted; and
- (b) 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 Bank, is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations."

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) "Maharashtra" means the State of Maharashtra, a State of India, acting by its Governor;
- (b) "Maharashtra Agreement" means the agreement among the Association, the Bank and Maharashtra 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 Maharashtra Agreement;
- (c) "Corporation" means the Municipal Corporation of Greater Bombay established under the Bombay Municipal Corporation Act of 1888;
- (d) "Project Agreement" means the Agreement among the Association, the Bank and the Corporation 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;
- (e) "Loan Agreement" means the agreement of even date herewith between the Borrower and the Bank for the Project, as such agreement may be amended from time to time; and such term includes the "General Conditions Applicable to Loan and Guarantee Agreements" of the Bank, dated January 1, 1985, as applied to such agreement, and all schedules and agreements supplemental to the Loan Agreement;
- (f) "Subsidiary Loan Agreement" means the

agreement to be entered into between Maharashtra and the Corporation pursuant to Section 2.02 of the Maharashtra Agreement, as the same may be amended from time to time, and such term includes all schedules to the Subsidiary Loan Agreement;

(g) "WSSD" means the Water Supply and Sewerage Department of the Corporation; and

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

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Development Credit Agreement, an amount in various currencies equivalent to fifteen million nine hundred thousand Special Drawing Rights (SDR 15,900,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit.

(b) The Borrower shall, for the purposes of the Project, open and maintain in dollars a special account in the Reserve Bank of India on terms and conditions satisfactory to the Association. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 3 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 2002, or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from a 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 or at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied as of the next payment date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one 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 semi-annually on February 15 and August 15 in each year.

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each February 15 and August 15 commencing August 15, 2005, and ending February 15, 2030. Each installment to and including the installment payable on February 15, 2015, shall be one and one-fourth percent (1-1/4%) of such principal amount, and each installment thereafter shall be two and one-half percent (2-1/2%) of such principal amount.

(b) Whenever (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years, and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the terms of repayment of installments under paragraph (a) above by requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid. If so requested by the Borrower, the Association may revise such modification to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

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

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

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, shall cause Maharashtra and the Corporation to perform in accordance with the provisions of the Maharashtra Agreement and the Project Agreement all the respective obligations of Maharashtra and the Corporation 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 Maharashtra and the Corporation to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) The Borrower shall make the proceeds of the Credit available to Maharashtra in accordance with the Borrower's standard arrangements for developmental assistance to the States of India.

Section 3.02. Except as the Association shall otherwise

agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to the Project Agreement.

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

Section 3.04. The Borrower shall, by June 30, 1997, or such other date as the Borrower and the Association may otherwise agree, appropriately revise and establish quality standards applicable to the discharge of wastewater to marine coastal waters.

ARTICLE IV

Particular Covenants

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

- (i) maintain or cause to be maintained in accordance with sound accounting practices, records and accounts reflecting such expenditures;
- (ii) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained until at least one year after the Association has received the audit report for the financial year in which the last withdrawal from the Credit Account was made; and
- (iii) enable the Association's representatives to examine such records.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) (i) of this Section and those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;
- (ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested, including a separate opinion by said auditors as to whether the statements of expenditure submitted during such financial year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals; and
- (iii) furnish to the Association such other information concerning said records and accounts and the audit thereof as the Association shall from time to time reasonably request.

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) Maharashtra or the Corporation shall have failed to perform any of its respective obligations under the Maharashtra Agreement or the Project Agreement.

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

(c) The Bombay Municipal Corporation Act of 1888 shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Corporation to perform any of its obligations under the Project Agreement.

(d) Maharashtra or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of the Corporation or for the suspension of its operations.

Section 5.02. Pursuant to Section 7.01 (d) of the General Conditions, the following additional events are specified:

(a) any 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 Maharashtra or the Corporation, as the case may be; and

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

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) the Subsidiary Loan Agreement has been executed on behalf of Maharashtra and the Corporation;

(b) all conditions precedent to the effectiveness of the Loan Agreement shall have been fulfilled, other than those related to the effectiveness of this Agreement;

(c) the Corporation has issued a Letter of Acceptance to the successful bidder in respect of the contract for the construction of the Worli and Bandra outfalls under Part A (i) of the Project;

(d) the Corporation has issued Tenders for the works to be carried out under Part A (vii) of the Project;

(e) consultants' contracts for the carrying out of Parts B (ii) and (iii) of the Project have been awarded; and

(f) the Association has received consultant recruitment documentation and program, satisfactory to the Association, for the recruitment of consultants for the supervision of construction of works to be carried out under Parts A (i) through (v) and (vii) of the Project.

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 Maharashtra Agreement has been duly authorized or ratified by Maharashtra, and is legally binding upon Maharashtra in accordance with its terms;

(b) that the Project Agreement has been duly authorized or ratified by the Corporation, and is legally binding upon the Corporation in accordance with its terms; and

(c) that the Subsidiary Loan Agreement has been duly authorized or ratified by Maharashtra and the Corporation and is legally binding upon Maharashtra and the Corporation 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.

Section 6.04. The provisions of paragraph (b) of Section 5.02 of this Agreement shall cease and determine on the date on which the Development Credit Agreement shall terminate or on the date 25 years after the date of this Agreement, whichever shall be the earlier.

ARTICLE VII

Representatives of the Borrower; Addresses

Section 7.01. Any Secretary, Additional Secretary, Joint Secretary, Director, Deputy Secretary or Under Secretary in the Department of Economic Affairs 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:

The Secretary to the Government
of India
Ministry of Finance
Department of Economic Affairs
New Delhi, India

Cable address:

ECOFAIRS
New Delhi

Telex:

53-3166175

For the Association:

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

Cable address:

INDEVAS
Washington, D.C.

Telex:

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.

INDIA

By /s/ N. Valluri
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Heinz Vergin
Acting Regional Vice President
South Asia

SCHEDULE I

Withdrawal of the Proceeds of the Credit and of the Loan

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit and of the Loan, the allocation of the amounts of the Credit and of the Loan 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)	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(1) Civil works	13,900,000	105,800,000	59%
(2) Equipment and materials	1,000,000	11,900,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 80% of local expenditures for other items procured locally
(3) Consultants' services	1,000,000	32,600,000	100%
(4) Unallocated	-	16,700,000	
TOTAL	15,900,000	167,000,000	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

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

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement, except that withdrawals, in an aggregate amount not exceeding the equivalent of SDR 7,600,000 may be made in respect of Category (1) on account of payments made for expenditures before that date but after June 15, 1995.

4. The Association and the Bank may require withdrawals from the Credit Account and from the Loan Account to be made on the basis of statements of expenditure for expenditures under contracts not exceeding the equivalent of \$1,000,000 for goods and works, \$100,000 for employment of consulting firms and \$50,000 for employment of individual consultants, all under such terms and conditions as the Association and the Bank shall specify by notice to the Borrower.

SCHEDULE 2

Description of the Project

The objectives of the Project are to (i) strengthen the Corporation's capacity in all aspects of the management of the provision of sewerage services; (ii) sustain the financial viability of the provision of water supply and sewerage services in the jurisdiction of the Corporation, and (iii) improve the health and environmental conditions in the jurisdiction of the Corporation, including the slum dwellers.

The Project consists of the following Parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

Part A: Physical Components

(i) The construction of about 3 km long and about 3.5 meter in diameter marine outfall in submarine tunnel at Worli and a similar outfall at Bandra.

(ii) The construction of a pumping station at Bandra.

(iii) The construction of aerated lagoons at Ghatkopar and Bhandup.

(iv) The construction of facilities to prevent siltation of the influent tunnel at Ghatkopar.

(v) The rehabilitation of the existing Ghatkopar tunnel.

(vi) The implementation of slum sanitation schemes.

(vii) The construction of additional structural features to improve the stability of five existing sewage pumping stations.

(viii) The implementation of a program of improvements to the existing conveyance system.

Part B: Technical Assistance and Training

Provision of technical assistance and training for:

(i) supervision of construction of the works to be carried out under Parts A (i) through (v) and (vii);

(ii) upgrading the operation and maintenance practices and facilities for the Corporation's sewerage system to acceptable levels;

(iii) implementing topographic and condition surveys of the Corporation's conveyance system and formulating a program of improvements to said system;

(iv) carrying out of social and physical surveys, the formulation of

investment proposals, implementation and management, and for independent monitoring and evaluation in respect of the slum sanitation schemes; and

(v) carrying out of feasibility studies for the second stage sewage treatment and disposal facilities in the service areas of Malad, Versova, Bhandup, Ghatkopar, Bandra, Worli and Colaba and completing detailed engineering designs for sewage treatment and disposal facilities in said service areas.

* * * *

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

SCHEDULE 3

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1), (2), and (3), set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit and of the Loan 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 \$8,000,000 to be withdrawn from the Credit Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule, provided, however, that unless the Association shall otherwise agree, the Authorized Allocation shall be limited to an amount equivalent to \$5,000,000 until the aggregate amount of withdrawals from the Credit Account plus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions shall be equal to or exceed the equivalent of SDR 15,900,000.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

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

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for deposit into the 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 Special Account such amount or amounts as the Borrower shall have requested.

(b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposits into the Special Account at such intervals as the Association shall specify.

(ii) Prior to or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect

of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures. All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

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

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

(a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account or the Loan Account in accordance with the provisions of Article V of the respective 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 Account;

(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 or the Loan Account pursuant to the provisions of Section 6.02 of the respective General Conditions; or

(d) once the total withdrawn amount of the Credit or the Loan allocated to the eligible Categories, 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 the Project, shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the Credit Account or the Loan Account of the remaining unwithdrawn amount of the Credit or the Loan allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the Special Account (or, if the Association shall request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no

further deposit by the Association into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

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

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Credit Account or the Loan Account, as the case may be, for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

