

CONFORMED COPY

CREDIT NUMBER 3832 ZA

Development Credit Agreement

(Southern African Power Market Project Phase I)

between

REPUBLIC OF ZAMBIA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated February 3, 2004

CREDIT NUMBER 3832 ZA

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated February 3, 2004, between the REPUBLIC OF ZAMBIA (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Association has received a letter from the Borrower, dated May 13, 2003, describing a program designed to assist in the development of an efficient regional power market in the Southern African Development Community (the Program) and declaring the Borrower's commitment to the execution of such program; and

(B) the Borrower has requested that the Association support the execution of the Program through a series of credits to the Borrower, the Democratic Republic of Congo, Republic of Malawi, Republic of Mozambique and United Republic of Tanzania over a period of approximately six years to be utilized in the implementation of the Program;

(C) 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 Part D of the Project;

(D) Part A of the Project will be carried out by SAPP Coordination Center with the assistance of various donors, and as part of such assistance, SAPP Coordination Center intends to contract from the Norwegian Agency for Development Cooperation, the Swedish International Development Agency and the United States Agency for International Development (the Donors), grants in amounts equivalent to three million three hundred sixty thousand Dollars (\$3,360,000) to assist in financing Part A of the Project on the terms and conditions set forth in agreements to be entered into between SAPP Coordination Center and the Donors;

(E) Part B of the Project will be carried out by the Democratic Republic of Congo with the Association's assistance, and as part of such assistance, the Democratic Republic of Congo intends to contract from the Association a credit in an amount equivalent to one hundred twenty nine million two hundred thousand Special Drawing Rights (SDR 129,200,000) to assist in financing Part B of the Project on the terms and conditions set forth in an agreement to be entered into between the Democratic Republic of Congo and the Association;

(F) Part C of the Project will be carried out by the Copperbelt Energy Corporation of Zambia, established and operating in the Borrower's territory; 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;

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 (as amended through October 6, 1999), with the modifications set forth below (the General Conditions), constitute an integral part of this Agreement:

Paragraph (c) of Section 9.06 of the General Conditions is modified to read as follows:

"(c) Not later than six months before the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, the Borrower shall prepare and furnish to the Association a report, of such scope and in such detail as the Association shall reasonably request, on the execution and initial operation of the Project, its cost and the benefits derived and to be derived from it, the performance by the Borrower and the Association of their respective obligations under the Development Credit Agreement and the accomplishment of the purposes of the 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) "AC" means alternating current;
- (b) "BCECO" means *Bureau Centrale de Coordination*, an entity established by the DRC (as hereinafter defined) to handle procurement and financial management aspects of its projects ;
- (c) "DC" means direct current;
- (d) "DRC" means the Democratic Republic of Congo;
- (e) "EIA" means the Environmental Impact Assessment acceptable to the Association dated May 2003 prepared and submitted to the Association for the implementation of construction activities under Part C of the Project, which includes inter alia, the environmental management plan, and which describes the actual and potential environmental impact of the said activities, a management plan setting forth adequate

mitigating measures and systems required to monitor the implementation of the construction activities referred to above and to ensure compliance of such activities with said measures, with a view to limiting any actual or potential adverse environmental impact;

(f) “Financial Monitoring Report” or “FMR” means each report prepared in accordance with Section 4.02 of this Agreement;

(g) “Project Preparation Advance” means the project preparation advance granted by the Association to the Borrower pursuant to the letter agreement signed on behalf of the Association on February 14, 2003 and on behalf of the Borrower on March 5, 2003;

(h) “RAP” means the Resettlement Action Plan acceptable to the Association, adopted by the Borrower in May 2003 describing the actual or potential resettlement that may be required for the construction activities under Part C of the Project, including a resettlement and compensation plan, satisfactory to the Association;

(i) “SAPP” means Southern African Power Pool, the inter-governmental power pool created on September 28, 1995, by the SAPP Countries (as hereinafter defined) pursuant to the Inter-Governmental Memorandum of Understanding;

(j) “SAPP Countries” means the countries that have signed the Inter-Governmental Memorandum of Understanding, including as of the date of this Agreement, the People’s Republic of Angola, the Republic of Botswana, the Kingdom of Lesotho, the Democratic Republic of Congo, the Republic of Malawi, the Republic of Namibia, the Republic of South Africa, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Zambia and the Republic of Zimbabwe;

(k) “SAPP Coordination Center” means the center established by the SAPP Countries pursuant to the Constitution of the Coordination Center dated August 14, 1998;

(l) “SAPP Instruments” means the legal instruments entered into by SAPP Countries establishing SAPP and SAPP Coordination Center, namely, the Inter-Governmental Memorandum of Understanding, the Inter-Utility Memorandum of Understanding dated December 8, 1995 and the Constitution of the Coordination Center dated August 14, 1998;

(m) “SNEL” means *Société Nationale d’Electricité*, the National Society of Electricity of the Democratic Republic of Congo operating pursuant to Law No. 78-196 of May 5, 1978 of the Democratic Republic of Congo; and

(n) “Southern African Development Community” or “SADC” means the international organization established by its member countries to achieve, *inter alia*,

development and economic growth for the people of the southern region of Africa, pursuant to the Declaration and Treaty of SADC dated April 1, 1980.

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 eight hundred thousand Special Drawing Rights (SDR 800,000).

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

(b) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advance withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be canceled.

Section 2.03. The Closing Date shall be December 31, 2007 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

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

(b) The commitment charge shall accrue: (i) from the date sixty days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or 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 15 and November 15 in each year.

Section 2.07. (a) Subject to paragraphs (b), (c) and (d) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each May 15 and November 15 commencing November 15, 2013, and ending May 15, 2043. Each installment to and including the installment payable on May 15, 2023, 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.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall carry out Part D of the Project through the Office for Promoting Private Power Investment within the Ministry of Energy and Water Development, with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and environmental practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for Part D of the Project.

(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 Part D of the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement.

(c) Without limitation upon the provisions of paragraphs (a) and (b) of this section, the Borrower shall: (i) ensure that Part C of the Project is implemented in accordance with the EIA and RAP; and (ii) take all actions necessary or appropriate to enable the Copperbelt Energy Corporation of Zambia (CEC) to perform its obligations to implement Part C of the Project, and, subject to CEC's compliance with the Borrower's applicable laws and regulations, shall not take or permit to be taken any action which would prevent or interfere with such performance.

Section 3.02. Except as the Association shall otherwise agree, procurement of the consultants' services required for Part D of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, the Borrower shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months before the Closing Date or such

later date as may be agreed for this purpose between the Borrower and the Association, a plan for the future operation of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with the Borrower on said plan.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall establish and maintain a financial management system, including records and accounts, and prepare financial statements in a format acceptable to the Association, adequate to reflect the operations, resources and expenditures related to Part D of the Project.

(b) The Borrower shall:

- (i) have the records, accounts and financial statements referred to in paragraph (a) of this Section for each fiscal year audited, in accordance with auditing standards acceptable to the Association, 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, (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year as so audited, and (B) an opinion on such statements, records and accounts and 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 such records and accounts, and the audit thereof, and concerning said auditors, as the Association may from time to time reasonably request.

Section 4.02. (a) Without limitation upon the Borrower's progress reporting obligations set out in Section 4.01 The Borrower shall prepare and furnish to the Association a Financial Monitoring Report, in form and substance satisfactory to the Association, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Credit, and explains variances between the actual and planned uses of such funds;

(ii) describes progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and

(iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Association not later than 45 days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each FMR shall be furnished to the Association not later than 45 days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Remedies of the Association

Section 5.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional events are specified:

(a) a situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out.

(b) any of the SAPP Instruments has been amended, suspended, abrogated, repealed or waived as to effect materially and adversely the ability of the Borrower to carry out Part D of the Project.

ARTICLE VI

Effective Date; Termination

Section 6.01. 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

Representative of the Borrower; Addresses

Section 7.01. The Minister of the Borrower at the time responsible for finance 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:

Ministry of Finance and
National Planning
P.O. Box 50062
Lusaka, Zambia

Cable address:

Telex:

Facsimile:

42221

255995/250886

For the Association:

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) or
64145 (MCI)

(202) 477-6391

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 ZAMBIA

By /s/ Inonge Mbikusita Lewanika
Authorized Representative

INTERNATIONAL DEVELOPMENT
ASSOCIATION

By /s/ Hartwig Schafer
Authorized Representative

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:

<u>Category</u>	<u>Amount of the Credit Allocated (Expressed in SDR Equivalent)</u>	<u>% of Expenditures to be Financed</u>
(1) Consultants' services	150,000	100 %
(2) Refunding of Project Preparation Advance	650,000	Amount due pursuant to Section 2.02 (b) of this Agreement
TOTAL	<u>800,000</u>	

2. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement.

SCHEDULE 2

Description of the Project

The objectives of the Project are to develop an efficient regional power market in the Southern African Development Community to create conditions for accelerated investments in the power sector, increase competition and foster regional economic integration.

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: Support to SAPP Coordination Center

1. Development of: (a) an effective energy management system; and (b) a communication system to provide data to the energy management system and other databases in the SAPP Coordination Center, through the provision of technical advisory services and acquisition of equipment.
2. Development of an internet-based trading system for the short-term energy market within the SAPP through the provision of technical advisory services and acquisition of equipment.
3. Acquisition of a power system analysis software and provision of training to staff at the SAPP Coordination Center on the use of such system.
4. Provision of training to: (a) staff at the SAPP Coordination Center on the use of systems and facilities to be established under the Project to enhance their capacity to serve SAPP Countries; and (b) utility staff in the SAPP Countries on electricity trading and system operation.
5. Development and implementation of environmental and social guidelines through the provision of technical advisory services and training.
6. Carrying out of workshops to discuss opportunities for: (a) electricity trading; and (b) investment in regional electricity facilities.
7. Carrying out of studies on required regulatory reforms to promote fair trading in SAPP.

Part B: Enhancing the Capacity of the Transmission Corridor from DRC's territory to the SAPP

1. Enhancement and rehabilitation of the DC transmission link from Inga to Kolwezi, through the provision of technical advisory services and acquisition of equipment.
2. Rehabilitation of: (a) the AC network from Kolwezi to Karavia; (b) the AC interface substation at Inga; and (c) the transmission line from Karavia in the Democratic Republic of Congo to the border of the Borrower.
3. Construction of transmission lines from: (a) Karavia to the border of DRC with the Borrower; and (b) Fungurume to Karavia.
4. (a) Carrying out of studies to prepare technical and performance specifications required to carry out the Project; (b) assisting DRC with the technical aspects of procurement to be carried out under the Project; and (c) supervising installation and commissioning of equipment.
5. Construction of infrastructure for community services, including health, water and sanitation to communities along the route of the transmission line from Karavia to the border of the Borrower.
6. Provision of support in community services, including health, water and sanitation, to communities along the route of the transmission line from Karavia to the border of the Borrower through the provision of technical advisory services.
7. Separating the electricity export accounts from SNEL's other activities through provision of technical advisory services.
8. Capacity building for SNEL staff on export of electricity, through provision of technical advisory services.
9. Strengthening the capacity of BCECO to carry out procurement and financial management aspects of this Part B of the Project, through the provision of technical advisory services.
10. Establishment of an organizational unit within SNEL to carry out: (a) maintenance of the transmission corridor; and (b) measures aimed at mitigating negative effects identified by the environmental impact assessment and resettlement action plans.
11. Development of environmental assessment and resettlement action plans for the future development of the power sector in DRC, through the provision of technical advisory services.

Part C: Transmission Line from Luano Substation to the SAPP

Construction of a transmission line from Luano Substation in the Borrower's territory to the border with DRC near Kasumbalesa.

Part D: Feasibility Study

Carrying out of a study to assess the feasibility of: (a) constructing a transmission line from Pensulo in the Borrower's territory to Mbeya in the United Republic of Tanzania; and (b) reinforcing the Tanzanian transmission system to support the flow of power to the Republic of Kenya.

* * *

Part D of the Project is expected to be completed by June 30, 2007.

SCHEDULE 3

Procurement

Employment of Consultants

Part A: General

Consultants' services shall be procured in accordance with the provisions of Sections I and IV of the "Guidelines: Selection and Employment of Consultants by World Bank Borrowers" published by the Bank in January 1997 and revised in September 1997, January 1999 and May 2002 (the Consultant Guidelines), paragraph 1 of Appendix 1 thereto, Appendix 2 thereto and the following provisions.

Part B: Quality- and Cost-based Selection

Consultants' services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

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

1. Selection Planning

A plan for the selection of consultants, which shall include contract cost estimates, contract packaging, and applicable selection criteria and procedures, shall be furnished to the Association for its review and approval prior to the issuance to consultants of any requests for proposals. Selection of all consultants' services shall be undertaken in accordance with such selection plan as shall have been approved by the Association.

2. Prior Review

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 2, 3 and 5 of Appendix 1 to the Consultant 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 Consultant Guidelines shall apply.

SCHEDULE 4

Implementation Program

1. 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 Part D of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Association, and furnish to the Association, on or about October 31, 2004 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 objectives thereof during the period following such date; and

(c) review with the Association, by December 31, 2004, or such later date as the Association shall request, the report referred to in paragraph (b) of this Section, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said report and the Association's views on the matter.