Development Credit Agreement

(Fourth Development Finance Corporation Project)

between

REPUBLIC OF SRI LANKA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated September 30, 1977
DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated September 30, 1977 between THE REPUBLIC OF SRI LANKA (hereinafter called the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (hereinafter called the Association).

WHEREAS (A) The Borrower has requested the Association to assist in the financing of the Project described in Schedule 1 to this Agreement by extending the Credit as hereinafter provided;

(B) The Project will be carried out by the Development Finance Corporation of Ceylon (hereinafter called DFCC) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to DFCC the proceeds of the Credit as hereinafter provided; and

(C) The Association is willing to make the Credit available upon the terms and conditions set forth hereinafter and in a project agreement of even date herewith between the Association and DFCC;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE 1
General Conditions; Definitions

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Development Credit Agreements of the Association, dated March 15, 1974, with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 2 to this Agreement (said General Conditions Applicable to Development Credit Agreements of the Association, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings:
(a) "DFCC" means the Development Finance Corporation of Ceylon, a body corporate constituted pursuant to the Development Finance Corporation of Ceylon Act No. 35 of 1955 of the Borrower as amended by Act No. 8 of 1958, Act No. 1 of 1967, and Act No. 12 of 1974;

(b) "Project Agreement" means the agreement between the Association and DFCC of even date herewith, as the same may be amended from time to time;

(c) "Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and DFCC pursuant to Section 3.01(a) of this Agreement, as the same may be amended from time to time;

(d) "Sub-Loan" means a loan or credit made or proposed to be made directly or through an intermediary acceptable to the Association by DFCC in whole or in part out of the proceeds of the Credit lent to DFCC under the Subsidiary Loan Agreement, to an Investment Enterprise for an Investment Project and "free-limit sub-loan" means a sub-loan, as so defined, which qualifies as a free-limit sub-loan pursuant to the provisions of Section 2.03(d) of this Agreement;

(e) "Investment" means an investment other than a sub-loan made or proposed to be made by DFCC in whole or in part out of the proceeds of the Credit lent to DFCC under the Subsidiary Loan Agreement in an Investment Enterprise;

(f) "Investment Enterprise" means an enterprise to which DFCC proposes to make or has made a sub-loan or in which it proposes to make or has made an investment;

(g) "Investment Project" means a specific development project to be carried out by an Investment Enterprise utilizing the proceeds of a sub-loan or investment;

(h) "Rupees" and the letters "Rs" mean the currency of the Borrower;

(i) "DFCC Act" means the Development Finance Corporation of Ceylon Act No. 35 of 1955 of the Borrower, as amended by Act No. 8 of 1958, Act No. 1 of 1967 and Act No. 12 of 1974, as further amended from time to time, and shall include the Regulations prescribed thereunder, as amended;
(j) "Statement of Policy" means the Statement of Policy approved by the Board of Directors of DFCC on April 11, 1967, as amended to the date of this Agreement, and as may be amended from time to time with the prior approval of the Association;

(k) "Subsidiary" means any company of which a majority of the outstanding voting stock or other proprietary interest is owned or is effectively controlled by DFCC or by any one or more subsidiaries of DFCC or by DFCC and one or more of its subsidiaries;

(l) "Prior Loan Agreements" means the Loan Agreements (No. 520 CE and No. 634 CE) between the Bank and DFCC dated November 22, 1967 and July 18, 1969, respectively;

(m) "Prior Credit Agreement" means the Development Credit Agreement (No. 566 CE) between the Association and DFCC dated June 27, 1975; and

(n) "SSI" means a Small Scale Industry Investment Enterprise, namely an investment enterprise in which investment in machinery and equipment does not exceed Rs 500,000, or such other amount as the Borrower and the Association may agree, and "SSI Investment Project" means a specific Investment Project to be carried out by an SSI.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions in the Development Credit Agreement set forth or referred to, an amount in various currencies equivalent to eight million dollars ($8,000,000).

Section 2.02. The Borrower designates DFCC as its representative for the purpose of taking any action required or permitted under the provisions of Section 2.03 of this Agreement and Article V of the General Conditions.

Section 2.03. (a) Except as the Association shall otherwise agree, the amount of the Credit may be withdrawn from the Credit Account for amounts expended by DFCC for an Investment Project, or if the Association shall so agree, for expenditures required
to be made by DFCC for an Investment Project, to finance the reasonable cost of goods and services required for the Investment Project in respect of which the withdrawal is requested.

(b) Withdrawals from the Credit Account pursuant to paragraph (a) of this Section may be made in respect of expenditures in currencies other than the currency of the Borrower for goods produced outside Sri Lanka.

(c) No withdrawal shall be made in respect of a Sub-Loan or Investment unless (i) the Sub-Loan or Investment shall have been approved by the Association; or (ii) the Sub-Loan shall be a free-limit sub-loan for which the Association shall have authorized withdrawals.

(d) A free-limit sub-loan shall be a Sub-Loan for an Investment Project in an amount to be financed under the Development Credit Agreement which, together with any other amount or amounts financed or proposed to be financed for the same Project under the Development Credit Agreement or under the Prior Loan Agreements and Prior Credit Agreement or under any other loan or credit made available to DFCC from any other external source of finance, and not repaid, shall not exceed in the aggregate the equivalent of:

(i) one hundred thousand dollars ($100,000) for (A) Investment Projects which propose to export less than eighty per cent (80%) of their production, and which are also either new Investment Projects or existing Investment Projects involving an increase in installed capacity of at least ten per cent (10%), and (B) tourism Investment Projects; and

(ii) four hundred thousand dollars ($400,000) for Investment Projects other than those included in sub-paragraph (i) above,

the foregoing amounts being subject to change from time to time as agreed between the Borrower and the Association.

(e) Except as the Association shall otherwise agree, no withdrawals shall be made on account of expenditures made by an Investment Enterprise in respect of a Sub-Loan subject to the Association's approval, or in respect of an Investment, if such expenditures shall have been made before the date of this Agreement or more than ninety days prior to the date on which
the Association shall have received in respect of such Sub-Loan or Investment the application and information required by Section 2.02(b) of the Project Agreement or, under a free-limit sub-loan, if such expenditures shall have been made before the date of this Agreement or more than ninety days prior to the date on which the Association shall have received in respect of such free-limit sub-loan the request and information required by Section 2.02(c) of the Project Agreement.

Section 2.04. The Closing Date shall be December 31, 1981, or such other date as shall be agreed between the Borrower and the Association.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one per cent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Service charges shall be payable semi-annually on April 1 and October 1 in each year.

Section 2.07. The Borrower shall repay the principal amounts of the Credit in semi-annual installments payable on each April 1 and October 1 commencing October 1, 1987, and ending April 1, 2027, each installment to and including the installment payable on April 1, 1997, to be one-half of one per cent (1/2 of 1%) of such principal amount, and each installment thereafter to be one and one-half per cent (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.

ARTICLE III

Use of the Proceeds of the Credit

Section 3.01. (a) The Borrower shall relend the proceeds of the Credit to DFCC for the purpose of carrying out the Project under a subsidiary loan agreement to be entered into between the Borrower and DFCC under terms and conditions satisfactory to the Association.
(b) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Credit, and except as the Association shall otherwise agree, the Borrower shall not assign, or amend, abrogate or waive the Subsidiary Loan Agreement or any provision thereof.

ARTICLE IV

Additional Covenants

Section 4.01. The Borrower shall not take, or permit any of its political subdivisions, or any of its agencies or instrumentalities, or any agency or instrumentality of any political subdivision, to take any action which would prevent or materially interfere with the performance by DFCC of any of its obligations under the Project Agreement or the Subsidiary Loan Agreement, and shall take or cause to be taken all reasonable action which shall be required on its part in order to enable DFCC to perform such obligations.

ARTICLE V

Remedies of the Association

Section 5.01. For the purposes of Section 6.02 of the General Conditions the following additional events are specified:

(a) a default shall occur in the performance of any obligation of DFCC under the Project Agreement;

(b) any part of the principal amount of any loan to DFCC having an original maturity of one year or more shall, in accordance with its terms, have become due and payable in advance of maturity as provided in the relative contractual instruments, or any security for any such loan shall have become enforceable;

(c) a change shall have been made in the DFCC Act which will materially and adversely affect the financial condition or operations of DFCC;

(d) the Statement of Policy shall have been amended without the prior approval of the Association; and
(e) a Subsidiary or any other entity shall have been created or acquired or taken over by DFCC, if such creation, acquisition or taking over would adversely affect the conduct of DFCC's business, its financial situation, the efficiency of its management and personnel or the carrying out of the Project.

Section 5.02. For the purposes of Section 7.01 of the General Conditions the following additional events are specified:

(a) the event specified in paragraph (a) of Section 5.01 shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower; and

(b) any event specified in paragraphs (b), (c), (d) or (e) of Section 5.01 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 execution and delivery of the Project Agreement on behalf of DFCC have been duly authorized or ratified by all necessary corporate and governmental action;

(b) the execution and delivery of the Subsidiary Loan Agreement on behalf of the Borrower and DFCC, respectively, have been duly authorized or ratified by all necessary corporate and governmental action; and

(c) DFCC's Board of Directors shall have adopted a Statement of Development Strategy acceptable to the Association.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02(b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

(a) that the Project Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, DFCC, and is legally binding upon DFCC in accordance with its terms; and
(b) that the Subsidiary Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of the Borrower and DFCC, and is legally binding upon the Borrower and DFCC in accordance with its terms.

Section 6.03. The date December 28, 1977 is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VII

Representative of the Borrower; Addresses

Section 7.01. Subject to the provisions of Section 2.02 of this Agreement, the Secretary of the Ministry of Planning and Economic Affairs 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
Ministry of Planning and Economic Affairs
Colombo
Sri Lanka

Cable address: SECMINPLAN
Telex: 1232
Colombo Colombo
Sri Lanka

For the Association:

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

Cable address: INDEVAS
Telex: 440098 (ITT)
Washington, D.C. 248423 (RCA) or
64145 (WUI)
IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, 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 SRI LANKA

By /s/ Neville Kanakaratne
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Ernest Stern
Regional Vice President
South Asia
SCHEDULE 1

Description of the Project

The Project consists of the financing by DFCC of specific development Projects through loans and credits directly or through intermediaries to, and investments in, private enterprises in the territories of the Borrower in accordance with the DFCC Act and the Statement of Policy.
SCHEDULE 2

Modifications of the General Conditions

For the purposes of the Development Credit Agreement, the provisions of the General Conditions are modified as follows:

(1) The following subparagraphs are added to Section 2.01:

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

"14. The term 'DFCC' has the meaning set forth in paragraph (a) of Section 1.02 of the Development Credit Agreement."

(2) The words "Investment Projects" are substituted for the words "the Project" at the end of Section 5.03.

(3) Section 6.03 is deleted and replaced by the following new Section:

"Section 6.03. Cancellation by the Association. If (a) the right of the Borrower to make withdrawals from the Credit Account shall have been suspended with respect to any amount of the Credit for a continuous period of thirty days, or (b) by the date specified in Section 2.02(e) of the Project Agreement no applications or requests permitted under paragraph (b) or paragraph (c) of such Section shall have been received by the Association in respect of any portion of the Credit, or having been so received, shall have been denied, or (c) after the Closing Date an amount of the Credit shall remain unwithdrawn from the Credit Account, the Association may by notice to the Borrower terminate the right of DFCC to submit such applications or requests or to make withdrawals from the Credit Account, as the case may be, with respect to such amount or portion of the Credit. Upon the giving of such notice such amount or portion or the Credit shall be cancelled."