Development Grant Agreement

(Third Transition Support Program Grant)

between

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated November 25, 2004
DEVELOPMENT GRANT AGREEMENT

AGREEMENT, dated November 25, 2004, between the DEMOCRATIC REPUBLIC OF TIMOR-LESTE (the Recipient) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Recipient has provided to the Association and to Australia, the Republic of Finland, Ireland, New Zealand, Kingdom of Norway, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, a letter and attached Action Matrix, dated September 27, 2004, (hereinafter called the “Letter of Development Policy” or “LDP”), describing a program of actions, objectives and policies designed to achieve poverty reduction, good governance and development of the Recipient’s economy (hereinafter called the “Third Transition Support Program” or “TSP3”), declaring the Recipient’s commitme
(a) the term “Borrower” is modified to read “Recipient”;  
(b) the term “Credit” is modified to read “Grant”;  
(c) the term “credit” is modified to read “grant”; except that where used in Sections 6.02(a)(ii) and 6.02(c)(i), as modified below, the term “credit” shall continue to read “credit”;  
(d) the term “Credit Account” is modified to read “Grant Account”; and  
(e) the term “Development Credit Agreement” is modified to read “Development Grant Agreement”.

2. Section 2.01, paragraph 12, is modified to read:

“Project” means the program, referred to in the Preamble to the Development Grant Agreement, in support of which the Grant is made.”

3. Sections 3.02, 3.03, 3.04(a), 3.04(b), 3.05, 6.05, Article VII, are deleted in their entirety.

4. Article IV is modified as follows:

(a) Section 4.01 is modified to read:

“Except as the Recipient and the Association shall otherwise agree, withdrawals from the Grant Account shall be made in the currency of the deposit account specified in Section 2.02 of the Development Grant Agreement.”

(b) The Heading of Section 4.02 and paragraph (a) of Section 4.02 are modified to read as follows:

“Section 4.02. Currencies in which Commitment Charges are Payable

(a) The Recipient shall pay the commitment charge on the Grant in the currency specified in the Development Grant Agreement or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to paragraph (c) or (e) of this Section.”

(c) Wherever used in Section 4.02(c) and (e) of the General Conditions the words “principal and service charges” are modified to read “commitment charge”.
(d) Section 4.03 and its heading are modified to read as follows:

“Section 4.03. Amount of the Grant

The amount of the Grant withdrawn from time to time shall be the equivalent in terms of SDR (determined as of the date or respective dates of withdrawal from the Grant Account) of the value of the currency or currencies so withdrawn.”

5. Article V is modified as follows:

(a) Section 5.01 is modified to read:

“The Recipient shall be entitled to withdraw the proceeds of the Grant from the Grant Account in accordance with the provisions of the Development Grant Agreement and of these General Conditions.”

(b) The last sentence of Section 5.03 is deleted.

6. Section 6.02 is modified as follows:

(a) the phrase “any other development credit agreement” in Section 6.02(a)(ii) is modified to read: “any other development grant agreement or any development credit agreement or development financing agreement”; and

(b) the phrase “any development credit agreement” in Section 6.02(c)(i) is modified to read: “any development grant agreement, development credit agreement or development financing agreement”.

7. The words “The principal of, and any other charges on” in Section 8.01(a) are modified to read “The commitment charge on”.

8. Article IX is modified as follows:

(a) Section 9.06 (c) is 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 Recipient and the Association, the Recipient 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 of the program referred to in the Preamble to the Development Grant Agreement, the performance by the Recipient and the Association of their respective obligations under the Development Grant Agreement and the accomplishment of the purposes of the Grant.”
(b) Section 9.04 is deleted and Sections 9.05, 9.06 (as modified above), 9.07 and 9.08 are renumbered, respectively, Sections 9.04, 9.05, 9.06 and 9.07.

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 term has the following meaning:

(a) “Deposit Account” means the account referred to in Section 2.02 (b) of this Agreement.

(b) “Fiscal Year” means the Recipient’s fiscal year starting July 1 and ending June 30.

(c) “FY2005 Annual Action Plan” means the Recipient’s plan for implementation of the activities financed under the Fiscal Year 2005 budget.

ARTICLE II

The Grant

Section 2.01. The Association agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, an amount in various currencies equivalent to three million four hundred thousand Special Drawing Rights (SDR 3,400,000).

Section 2.02. (a) Subject to the provisions of paragraphs (b) and (c) of this Section, the Recipient shall be entitled to withdraw, in a single or in several installments, the proceeds of the Grant from the Grant Account in support of the Program.

(b) The Recipient shall open, prior to furnishing to the Association the first request for withdrawal from the Grant Account, and thereafter maintain in its Banking and Payments Authority, a deposit account in US Dollars on terms and conditions satisfactory to the Association. All withdrawals from the Grant Account shall be deposited by the Association into the Deposit Account.

(c) The Recipient undertakes that the proceeds of the Grant shall not be used to finance expenditures excluded pursuant to the provisions of Schedule 1 to this Agreement. If the Association shall have determined at any time that any proceeds of the Grant shall have been used to make a payment for an expenditure so excluded, the Recipient shall, promptly upon notice from the Association, (i) deposit into the Deposit Account an amount equal to the amount of said payment, or (ii) if the Association shall so request, refund such amount to the Association. Amounts refunded to the Association upon such request shall be credited to the Grant Account for cancellation.

Section 2.03. The Closing Date shall be October 31, 2005, or such later date as the Association shall establish. The Association shall promptly notify the Recipient of such later date.
Section 2.04. (a) The Recipient shall pay to the Association a commitment charge on the principal amount of the Grant not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, such rate 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 Recipient from the Grant Account or cancelled; 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 2.05 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 Recipient; 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. Commitment charges shall be payable semi-annually on April 15 and October 15 in each year.

Section 2.06. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

ARTICLE III

Particular Covenants

Section 3.01. (a) The Recipient and the Association shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program.

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

(c) Without limitation upon the provisions of paragraph (a) of this Section, the Recipient shall exchange views with the Association on any proposed action to be taken after the disbursement of the Grant which would have the effect of materially reversing the objectives of the Program, or any action taken under the Program, including any action specified in Schedule 2 to this Agreement.

Section 3.02. Upon the Association’s request, the Recipient shall:

(a) have the Deposit Account audited in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;
(b) furnish to the Association as soon as available, but in any case not later than six months after the date of the Association’s request for such audit, a certified copy of the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

(c) furnish to the Association such other information concerning the Deposit Account and the audit thereof as the Association shall have reasonably requested.

ARTICLE IV

Additional Event of Suspension

Section 4.01. Pursuant to Section 6.02 (l) of the General Conditions, the following additional event is specified, namely, that a situation has arisen which shall make it improbable that the Program, or a significant part thereof, will be carried out.

ARTICLE V

Termination

Section 5.01. 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 VI

Representative of the Recipient; Addresses

Section 6.01. The Minister of Planning and Finance of the Recipient is designated as the representative of the Recipient 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 Recipient:

Ministry of Planning and Finance
Palácio do Governo
Edifício No. 5, 1º andar
Díli
Democratic Republic of Timor-Leste

Facsimile:

670-321339
For the Association:

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

Cable address: Telex: Facsimile:
INDEVAS 248423 (MCI) or (202) 477-6391
Washington, D.C. 64145 (MCI)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Dili, Democratic Republic of Timor-Leste, as of the day and year first above written.

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

By: /s/ Maria Madalena Boavida
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By: /s/ Elizabeth Huybens
Authorized Representative
SCHEDULE 1

Excluded Expenditures

For purposes of Section 2.02 (c) of this Agreement, the proceeds of the Grant shall not be used to finance any of the following expenditures:

1. expenditures in the currency of the Recipient or for goods or services supplied from the territory of the Recipient; provided, however, that for purposes of this paragraph, the United States Dollar shall be deemed the currency of a country other than that of the Democratic Republic of Timor-Leste;

2. expenditures for goods or services supplied under a contract which any national or international financing institution or agency other than the Bank or the Association shall have financed or agreed to finance, or which the Association or the Bank shall have financed or agreed to finance under another grant or a credit or a loan;

3. expenditures for goods included in the following groups or subgroups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or subgroups under future revisions to the SITC, as designated by the Association by notice to the Recipient:

<table>
<thead>
<tr>
<th>Group</th>
<th>Subgroup</th>
<th>Description of Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>112</td>
<td>-</td>
<td>Alcoholic beverages</td>
</tr>
<tr>
<td>121</td>
<td>-</td>
<td>Tobacco, unmanufactured, tobacco refuse</td>
</tr>
<tr>
<td>122</td>
<td>-</td>
<td>Tobacco, manufactured (whether or not containing tobacco substitutes)</td>
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<tr>
<td>525</td>
<td>-</td>
<td>Radioactive and associated materials</td>
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<tr>
<td>Group</td>
<td>Subgroup</td>
<td>Description of Items</td>
</tr>
<tr>
<td>-------</td>
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</tr>
<tr>
<td>667</td>
<td>-</td>
<td>Pearls, precious and semiprecious stones, unworked or worked</td>
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<tr>
<td>718</td>
<td>718.7</td>
<td>Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors</td>
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<tr>
<td>728</td>
<td>728.43</td>
<td>Tobacco processing machinery</td>
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<tr>
<td>897</td>
<td>897.3</td>
<td>Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths’ or silversmiths’ wares (including set gems)</td>
</tr>
<tr>
<td>971</td>
<td>-</td>
<td>Gold, non-monetary (excluding gold ores and concentrates)</td>
</tr>
</tbody>
</table>

4. expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;

5. expenditures for environmentally hazardous goods (for purposes of this paragraph the term “environmentally hazardous goods” means goods, the manufacture, use or import of which is prohibited under the laws of the Recipient or international agreements to which the Recipient is a party);

6. expenditures on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and

7. expenditures under a contract in respect of which the Association determines that corrupt or fraudulent practices were engaged in by representatives of the Recipient or of a beneficiary of the Grant during the procurement or execution of such contract, without the Recipient having taken timely and appropriate action satisfactory to the Association to remedy the situation.
SCHEDULE 2

Actions Referred to in Recital (B) of the Preamble to this Agreement

1. The Recipient has promulgated the Statutes of Ombudsman (Lei 7/2004 que Aprova os Estatutos do Provedor de Direitos Humanos e Justiça), which establishes an independent oversight function of the Government.

2. The Recipient has promulgated the Public Service Statute, including a framework for management systems and disciplinary procedures (Lei 8/2004 que Aprova o Estatuto da Função Pública).


4. The Superior Council of the Judiciary has been established under Law 8/2002 and has undertaken its functions.

5. The Recipient’s Ministry of Health has established annual district health plans as a routine tool for decentralized management of health services. The Recipient’s Ministry of Education, Culture, Youth and Sport has developed a pilot program in decentralized financial management by schools and parent teachers associations.

6. The Recipient has approved the policy framework for the agricultural sector.

7. The Recipient has promulgated the law on commercial entities to promote private sector development (Lei 4/2004 sobre Sociedades Comerciais).