

No. 16266

**UNITED STATES OF AMERICA
and
CAPE VERDE**

Loan Agreement for agricultural sector support (rural works) (with annex). Signed at Mindelo on 30 June 1975

First Amendment to the above-mentioned Agreement. Signed at Abidjan, Ivory Coast, on 3 March 1976 and at Praia, Cape Verde, on 23 March 1976

Authentic texts: English.

Registered by the United States of America on 27 January 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
CAP-VERT**

Accord de prêt relatif à l'appui au secteur agricole (travaux d'aménagement des zones rurales) [avec annexe]. Signé à Mindelo le 30 juin 1975

Premier amendement à l'Accord susmentionné. Signé à Abidjan (Côte d'Ivoire) le 3 mars 1976 et à Praia (Cap-Vert) le 23 mars 1976

Textes authentiques : anglais.

Enregistrés par les États-Unis d'Amérique le 27 janvier 1978.

LOAN AGREEMENT¹ BETWEEN THE TRANSITIONAL GOVERNMENT OF CAPE VERDE AND THE UNITED STATES OF AMERICA FOR AGRICULTURAL SECTOR SUPPORT (RURAL WORKS)

Dated: June 30, 1975

A.I.D. Loan No. 655-Z-001

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¹ Came into force on 30 June 1975 by signature.

<i>Article and section</i>	<i>Title</i>	<i>Article and section</i>	<i>Title</i>
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LOAN AGREEMENT dated the 30th day of June, 1975, between the TRANSITIONAL GOVERNMENT OF CAPE VERDE ("Borrower") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

Article I. THE LOAN

Section 1.01. THE LOAN. A.I.D. agrees to lend to the Borrower pursuant to the Foreign Assistance Act of 1961, as amended, an amount not to exceed three million United States dollars (\$3,000,000) ("Loan") to assist the Borrower in carrying out the Program referred to in section 1.02. The Loan shall be used exclusively to finance United States dollar costs and local currency costs of goods and services required for the Program. The aggregate amount of disbursements under the Loan is hereinafter referred to as "Principal".

Section 1.02. THE PROGRAM. The Program shall consist of labour-intensive rural works construction projects, such as construction of dikes, retaining walls, and aqueducts, and the clearing of land suitable for pasturage or crop production, designed to improve and increase the soil and water resources available for agricultural production in the country of the Borrower. The Program is more fully described in annex 1, attached hereto, which annex may be modified in writing. The goods and services to be financed under the Loan shall be listed in the Implementation Letters referred to in section 9.03 ("Implementation Letters").

Article II. LOAN TERMS

Section 2.01. INTEREST. The Borrower shall pay no interest on the outstanding balance of Principal.

Section 2.02. REPAYMENT. The Borrower shall repay to A.I.D. the Principal within forty (40) years from the date of the first disbursement hereunder in sixty-one (61) approximately equal semiannual installments. The first installment of Principal shall be due and payable ten (10) years after the first disbursement hereunder, on a date to be specified by A.I.D. A.I.D. shall provide the Borrower with an amortization schedule in accordance with this section after the final disbursement under the Loan.

Section 2.03. APPLICATION, CURRENCY, AND PLACE OF PAYMENT. All payments of Principal hereunder shall be made in United States dollars. Except as A.I.D. may otherwise specify in writing, all such payments shall be made to the Controller, Agency for International Development, Washington, D.C., U.S.A., and shall be deemed made when received by the Office of the Controller.

Section 2.04. PREPAYMENT. Upon payment of any refunds then used, the Borrower may prepay, without penalty, all or any part of the Principal. Any such prepayment shall be applied to the installments of Principal in the inverse order of their maturity.

Section 2.05. RENEGOTIATION OF THE TERMS OF THE LOAN. The Borrower and A.I.D. agree to negotiate, at such time or times as either may request, an acceleration of the repayment of the Loan in the event that there is any significant improvement in the internal and external economic and financial position and prospects of the country of the Borrower.

Article III. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 3.01. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT. Prior to the first disbursement or to the issuance of the first Letter of Commitment or other disbursement authorization under the Loan, the Borrower shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) an opinion of the Minister of Justice of the Borrower or of other counsel acceptable to A.I.D. that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Borrower, and that it constitutes a valid and legally binding obligation of the Borrower in accordance with all of its terms;
- (b) a statement of the names of the persons holding or acting in the office of the Borrower specified in section 9.02, and a specimen signature of each person specified in such statement.

Section 3.02. ADDITIONAL CONDITIONS PRECEDENT. Prior to disbursement of any amount or to the issuance of any Letter of Commitment or other disbursement authorization under the Loan for each sub-project financed hereunder, the Borrower shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) detailed plans and specifications, cost estimates, and time schedules for carrying out the sub-project, including analyses of technical soundness, and plans and anticipated resources for the maintenance and utilization of the sub-project;
- (b) executed contracts, if any, for engineering, procurement, and construction services for the sub-project acceptable to A.I.D. and with firms acceptable to A.I.D.

Section 3.03. TERMINAL DATE FOR MEETING INITIAL CONDITIONS PRECEDENT TO DISBURSEMENT. If all of the conditions specified in section 3.01 shall not have been met within ninety (90) days from the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement by giving written notice to the Borrower. Upon the giving of such notice, this Agreement and all obligations of the Parties hereunder shall terminate.

Section 3.04. NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO DISBURSEMENT. A.I.D. shall notify the Borrower upon determination by A.I.D. that the conditions precedent to disbursement specified in section 3.01 and, in each case, section 3.02 have been met.

Article IV. GENERAL COVENANTS AND WARRANTIES

Section 4.01. EXECUTION OF THE PROGRAM. (a) The Borrower shall carry out the Program with due diligence and efficiency, and in conformity with sound engineering, construction, financial, management, and administrative practices. In this connection, the Borrower shall at all times employ suitably qualified and experienced personnel, consultants, and/or contractors to be professionally responsible for the design and execution of sub-projects.

(b) The Borrower shall cause the Program to be carried out in conformity with all of the plans, specifications, contracts, schedules, and other arrangements, and with all modifications therein, approved by A.I.D. pursuant to this Agreement.

Section 4.02. FUNDS AND OTHER RESOURCES TO BE PROVIDED BY BORROWER. The Borrower shall provide promptly as needed all funds, in addition to the Loan, and all other resources required for the punctual and effective carrying out of the Program.

Section 4.03. CONTINUING CONSULTATION. The Borrower and A.I.D. shall cooperate fully to assure that the purpose of the Loan will be accomplished. To this end, the Borrower and A.I.D. shall, from time to time, at the request of either Party, exchange views through their representatives with regard to the progress of the Program, the performance of any consultants, contractors, and suppliers engaged in carrying out the Program, and other matters relating to the Program.

Section 4.04. MANAGEMENT. The Borrower shall provide qualified and experienced management for the Program, and it shall train such staff as may be appropriate for the maintenance and operation of sub-projects financed under the Loan.

Section 4.05. OPERATION AND MAINTENANCE. The Borrower shall operate, maintain and repair sub-projects in conformity with sound engineering, financial, management, and administrative practices and in such manner as to insure the continuing and successful achievement of the purposes of the Program.

Section 4.06. TAXATION. This Agreement, the Loan, and any evidence of indebtedness issued in connection herewith shall be free from, and the Principal shall be paid without deduction for and free from, any taxation or fees imposed under the laws in effect within the country of the Borrower. To the extent that (a) any contractor, consultant, or consulting firm, and personnel thereof, financed hereunder, and any property or transactions relating to the contracts with such contractor, consultant, or firm, and (b) any commodity procurement transaction financed hereunder are not exempt from identifiable taxes, tariffs, duties, or other levies imposed under laws in effect in the country of the Borrower, the Borrower shall, as and to the extent prescribed in and pursuant to Implementation Letters, pay or reimburse the same under section 4.02 of this Agreement with funds other than those provided under the Loan.

Section 4.07. UTILIZATION OF GOODS AND SERVICES. (a) Goods and services financed under the Loan shall be used exclusively for the Program, except as A.I.D. may otherwise agree in writing. Upon completion of the Program, or at such other time as goods financed under the Loan can no longer usefully be employed for the Program, the Borrower may use or dispose of such goods in such manner as A.I.D. may agree to in writing prior to such use or disposition.

(b) Except as A.I.D. may otherwise agree in writing, no goods or services financed under the Loan shall be used to promote or assist any foreign aid project or activity associated with or financed by any country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such use.

Section 4.08. DISCLOSURE OF MATERIAL FACTS AND CIRCUMSTANCES. The Borrower represents and warrants that all facts and circumstances that it has disclosed or caused to be disclosed to A.I.D. in the course of obtaining the Loan are accurate and complete, and that it has disclosed to A.I.D., accurately and completely, all facts and circumstances that might materially affect the Program and the discharge of its obligations under this Agreement. The Borrower shall promptly inform A.I.D. of

any facts and circumstances that may hereafter arise that might materially affect, or that it is reasonable to believe might materially affect, the Program or the discharge of the Borrower's obligations under this Agreement.

Section 4.09. COMMISSIONS, FEES AND OTHER PAYMENTS. (a) Borrower warrants and covenants that in connection with obtaining the Loan, or taking any action under or with respect to this Agreement, it has not paid, and will not pay or agree to pay, nor to the best of its knowledge has there been paid, nor will there be paid or agreed to be paid by any other person or entity, commissions, fees, or other payments of any kind, except as regular compensation to the Borrower's full-time officers and employees or as compensation for bona fide professional, technical, or comparable services. The Borrower shall promptly report to A.I.D. any payment or agreement to pay for such bona fide professional, technical, or comparable services to which it is a Party or of which it has knowledge (indicating whether such payment has been made or is to be made on a contingent basis), and if the amount of any such payment is deemed unreasonable by A.I.D., the same shall be adjusted in a manner satisfactory to A.I.D.

(b) The Borrower warrants and covenants that no payments have been or will be received by the Borrower, or any official of the Borrower, in connection with the procurement of goods and services financed hereunder, except fees, taxes, or similar payments legally established in the country of the Borrower.

Section 4.10. MAINTENANCE AND AUDIT OF RECORDS. The Borrower shall maintain, or cause to be maintained, in accordance with sound accounting principles and practices consistently applied, books and records relating both to the Program and to this Agreement. Such books and records shall, without limitation, be adequate to show:

- (a) the receipt and use made of goods and services acquired with funds disbursed pursuant to this Agreement;
- (b) the nature and extent of solicitations of prospective suppliers of goods and services acquired;
- (c) the basis of the award of contracts and orders to successful bidders and suppliers; and
- (d) the progress of the Program.

Such books and records shall be regularly audited, in accordance with sound auditing standards, for such period and at such intervals as A.I.D. may require, and shall be maintained for five years after the date of the last disbursement by A.I.D. or until all sums due A.I.D. under this Agreement have been paid, whichever date shall first occur.

Section 4.11. REPORTS. The Borrower shall furnish to A.I.D. such information and reports relating to the Loan and to the Program as A.I.D. may reasonably request.

Section 4.12. INSPECTIONS. The authorized representatives of A.I.D. shall have the right at all reasonable times to inspect the Program and sub-projects thereunder, the utilization of all goods and services financed under the Loan, and the Borrower's books, records, and other documents relating to the Program and the Loan. The Borrower shall cooperate with A.I.D. to facilitate such inspections and shall permit representatives of A.I.D. to visit any part of the country of the Borrower for any purpose relating to the Loan.

Section 4.13. RATE OF EXCHANGE. If funds provided by A.I.D. are introduced into the country of the Borrower by A.I.D. or any public or private agency for

purposes of the Program or the carrying out of the obligations of A.I.D. hereunder, the Borrower upon the request of A.I.D. will make such arrangements within its powers as may be necessary so that such funds will be convertible into the currency of the country of the Borrower at the highest rate of exchange which, at the time the conversion is made, is not unlawful in the country of the Borrower.

Article V. SPECIAL PROVISIONS

Article VI. PROCUREMENT

Section 6.01. PROCUREMENT FROM SELECTED FREE WORLD COUNTRIES. Except as A.I.D. may otherwise agree in writing, and except as provided in subsection 6.09(c) with respect to marine insurance, disbursements made pursuant to section 7.01 shall be used exclusively to finance the procurement for the Program of goods and services having their source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts are entered into for such goods and services. Goods and services procured pursuant to this section shall be referred to as "Selected Free World Goods" and "Selected Free World Services" respectively. All ocean shipping financed under the Loan shall have its source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time of shipment.

Section 6.02. PROCUREMENT FROM CAPE VERDE. Disbursements made pursuant to section 7.02 shall be used exclusively to finance the procurement for the Program of goods and services having both their source and origin in Cape Verde, and/or goods and services having their source in Cape Verde and their origin in countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time of shipment.

Section 6.03. ELIGIBILITY DATE. Except as A.I.D. may otherwise agree in writing, no goods or services may be financed under the Loan which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement.

Section 6.04. GOODS AND SERVICES NOT FINANCED UNDER LOAN. Except as A.I.D. may otherwise agree in writing, goods and services procured for the Program, but not financed under the Loan, shall have their source and origin in countries included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time orders are placed for such goods and services.

Section 6.05. IMPLEMENTATION OF PROCUREMENT REQUIREMENTS. The definitions applicable to the eligibility requirements of sections 6.01, 6.02, and 6.04 will be set forth in detail in Implementation Letters.

Section 6.06. PLANS, SPECIFICATIONS, AND CONTRACTS. (a) Except as A.I.D. may otherwise agree in writing, the Borrower shall furnish to A.I.D., promptly upon preparation, all plans, specifications, construction schedules, bid documents, and contracts relating to the Program, and any modifications therein with respect to goods and services financed under the Loan.

(b) Except as A.I.D. may otherwise agree in writing, all of the plans, specifications, and construction schedules furnished pursuant to subsection (a) above shall be approved by A.I.D. in writing.

(c) All bid documents and documents related to the solicitation of proposals relating to goods and services financed under the Loan shall be approved by A.I.D. in writing prior to their issuance. All plans, specifications, and other documents relating to procurement of goods and services financed under the Loan shall be in

terms of United States standards and measurements, except as A.I.D. may otherwise agree in writing.

(d) The following contracts financed under the Loan shall be approved by A.I.D. in writing prior to their execution:

- (i) contracts for engineering and other professional services;
- (ii) contracts for construction services;
- (iii) contracts for such other services as A.I.D. may specify; and
- (iv) contracts for such equipment and materials as A.I.D. may specify.

In the case of any of the above contracts for services, A.I.D. shall also approve in writing the contractor and such contractor personnel as A.I.D. may specify. Material modifications in any of such contracts and changes in any of such personnel shall also be approved by A.I.D. in writing prior to their becoming effective.

(e) Consulting firms used by the Borrower for the Program but not financed under the Loan, the scope of their services, and such of their personnel assigned to the Program as A.I.D. may specify, and construction contractors used by the Borrower for the Program but not financed under the Loan shall be acceptable to A.I.D.

Section 6.07. REASONABLE PRICE. No more than reasonable prices shall be paid for any goods or services financed, in whole or in part, under the Loan, as more fully described in Implementation Letters. Such items shall be procured on a fair and, except for professional services, on a competitive basis in accordance with procedures therefor prescribed in Implementation Letters.

Section 6.08. EMPLOYMENT OF NON-SELECTED FREE WORLD NATIONALS UNDER CONSTRUCTION CONTRACTS. The employment of personnel to perform services under any construction contract financed under the Loan shall be subject to certain requirements with respect to nationals of countries other than the country of the Borrower and countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time the construction contract is entered into. These requirements are prescribed in Implementation Letters.

Section 6.09. SHIPPING AND INSURANCE. (a) Selected free world goods financed under the Loan shall be transported to the country of the Borrower only on flag carriers of a country included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of shipment.

(b) Unless A.I.D. shall determine that privately owned United States-flag commercial vessels are not available at fair and reasonable rate for such vessels, (i) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed under the Loan which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, and (ii) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed under the Loan and transported to the country of the Borrower on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels. Compliance with the requirements of (i) and (ii) above must be achieved with respect to both cargo transported from U.S. ports and cargo transported from non-U.S. ports, computed separately.

(c) Marine insurance on selected free world goods may be financed under the Loan with disbursements made pursuant to section 7.01, provided (1) such insurance is placed at the lowest available competitive rate in the country of the Borrower or in a country included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time of placement, and (ii) claims thereunder are payable in the currency in which such goods were financed or in any freely convertible currency. If the Government of

the Borrower, by statute, decree, rule, regulation, or practice discriminates with respect to A.I.D.-financed procurement against any marine insurance company authorized to do business in any state of the United States, then all goods shipped to the cooperating country financed under the Loan shall be insured against marine risks and such insurance shall be placed in the United States with a company or companies authorized to do a marine insurance business in a state of the United States.

(d) Except as A.I.D. may otherwise agree in writing, the Borrower shall insure, or cause to be insured, all goods financed under the Loan against risks incident to their transit to the point of their use in the Program. Such insurance shall be issued upon terms and conditions consistent with sound commercial practice and shall insure the full value of the goods. Any indemnification received by the Borrower under such insurance shall be used to replace or repair any material damage or any loss of the goods insured or shall be used to reimburse the Borrower for the replacement or repair of such goods. Any such replacements shall have their source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts are entered into for such replacements, and shall be otherwise subject to the provisions of this Agreement.

Section 6.10. NOTIFICATION TO POTENTIAL SUPPLIERS. In order that United States firms shall have the opportunity to participate in furnishing goods and services to be financed under the Loan, the Borrower shall furnish to A.I.D. such information with regard thereto, and at such times, as A.I.D. may request in Implementation Letters.

Section 6.11. UNITED STATES GOVERNMENT-OWNED EXCESS PROPERTY. The Borrower agrees to consider the utilization of, and the funds provided by A.I.D. hereunder may be used to finance the costs of obtaining for the Program, reconditioned United States Government-owned excess property, provided it is suitable for the Program and available on a timely basis.

Section 6.12. INFORMATION AND MARKING. Borrower shall give publicity to the Loan and the Program as a program of United States aid and shall identify the sub-project sites and mark goods financed under the Loan, all as prescribed in Implementation Letters.

Article VII. DISBURSEMENTS

Section 7.01. DISBURSEMENT FOR UNITED STATES DOLLAR COSTS—LETTERS OF COMMITMENT TO UNITED STATES BANKS. Upon satisfaction of conditions precedent, the Borrower may, from time to time, request A.I.D. to issue Letters of Commitment for specified amounts to one or more United States banks, satisfactory to A.I.D., committing A.I.D. to reimburse such bank or banks for payments made by them to contractors or suppliers, through the use of Letters of Credit or otherwise, for dollar costs of goods and services procured for the Program in accordance with the terms and conditions of this Agreement. Payment by a bank to a contractor or supplier will be made by the bank upon presentation of such supporting documentation as A.I.D. may prescribe in Letters of Commitment and Implementation Letters. Banking charges incurred in connection with Letters of Commitment and Letters of Credit shall be for the account of the Borrower and may be financed under the Loan.

Section 7.02. DISBURSEMENT FOR LOCAL CURRENCY COSTS. Upon satisfaction of conditions precedent, the Borrower may, from time to time, request disbursement by A.I.D. of local currency for local currency costs of goods and services procured or to be procured for the Program in accordance with the terms and conditions of this Agreement by submitting to A.I.D. such supporting documentation as A.I.D. may

prescribe in Implementation Letters. A.I.D. may make such disbursements from local currency of the country of the Borrower owned by the U.S. Government and obtained by A.I.D. with United States dollars. The United States dollar equivalent of the local currency made available hereunder will be the amount of United States dollars required by A.I.D. to obtain the currency of the country of the Borrower.

Section 7.03. OTHER FORMS OF DISBURSEMENT. Disbursements of the Loan may also be made through such other means as the Borrower and A.I.D. may agree to in writing.

Section 7.04. DATE OF DISBURSEMENT. Disbursements by A.I.D. shall be deemed to occur (a) in the case of disbursements pursuant to section 7.01, on the date on which A.I.D. makes a disbursement to the Borrower, to its designee, or to a banking institution pursuant to a Letter of Commitment, and (b) in the case of disbursements pursuant to section 7.02, on the date on which A.I.D. disburses the local currency to the Borrower or its designee.

Section 7.05. TERMINAL DATE FOR DISBURSEMENT. Except as A.I.D. may otherwise agree in writing, no Letter of Commitment, or other commitment document which may be called for by another form of disbursement, or any amendment thereto, shall be issued in response to requests received by A.I.D. after twenty-four (24) months, and no disbursement shall be made against documentation received by A.I.D. or any bank described in section 7.01 after thirty (30) months, from the date of execution of this Agreement. A.I.D., at its option, may at any time or times after thirty (30) months from the date of execution of this Agreement reduce the Loan by all or any part thereof for which documentation was not received by such date.

Article VIII. CANCELLATION AND SUSPENSION

Section 8.01. CANCELLATION BY THE BORROWER. The Borrower may, by written notice to A.I.D., cancel any part of the Loan (i) which, prior to the giving of such notice, A.I.D. has not disbursed or committed itself to disburse, or (ii) which has not then been utilized through the issuance of irrevocable Letters of Credit.

Section 8.02. EVENTS OF NON-COMPLIANCE; ACCELERATION. If any one or more of the following events ("Events of Non-compliance") shall occur:

- (a) the Borrower shall have failed to pay when due any installment of Principal required under this Agreement,
- (b) the Borrower shall have failed to comply with any other provision of this Agreement, including, but without limitation, the obligation to carry out the Program with due diligence and efficiency,
- (c) the Borrower shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement, or any other agreement between the Borrower or any of its agencies and A.I.D., or any of its predecessor agencies,

then A.I.D. may give to the Borrower notice that the Event of Non-compliance must be cured within sixty (60) days thereafter; and, if the Event of Non-compliance is not cured within said period, A.I.D. may, at its option, give to the Borrower additional notice that:

- (i) all unpaid Principal shall be due and payable immediately; and
- (ii) the amount of any further disbursements made under then outstanding irrevocable Letters of Credit or otherwise shall become due and payable as soon as made.

Section 8.03. **SUSPENSION OF DISBURSEMENT.** In the event that at any time:

- (a) an Event of Non-compliance has occurred,
- (b) an event occurs that A.I.D. determines to be an extraordinary situation that makes it improbable either that the purpose of the Loan will be attained or that the Borrower will be able to perform its obligations under this Agreement,
- (c) any disbursement by A.I.D. would be in violation of the legislation governing A.I.D., or
- (d) the Borrower shall have failed to pay when due any interest or any installment of Principal or any other payment required under any other loan agreement, any guaranty agreement, or any other agreement between the Borrower or any of its agencies and the Government of the United States or any of its agencies,

then A.I.D. may, at its option:

- (i) suspend or cancel outstanding commitment documents to the extent that they have not been utilized through the issuance of irrevocable Letters of Credit or through bank payments made other than under irrevocable Letters of Credit, in which event A.I.D. shall give notice to the Borrower promptly thereafter;
- (ii) decline to make disbursements other than under outstanding commitment documents;
- (iii) decline to issue additional commitment documents;
- (iv) at A.I.D.'s expense, direct that title to goods financed under the Loan shall be transferred to A.I.D. if the goods are from a source outside the country of the Borrower, are in a deliverable state and have not been offloaded in ports of entry of the country of the Borrower. Any disbursement made or to be made under the Loan with respect to such transferred goods shall be deducted from Principal.

Section 8.04. **CANCELLATION BY A.I.D.** Following any suspension of disbursements pursuant to section 8.03, if the cause or causes for such suspension of disbursements shall not have been eliminated or corrected within sixty (60) days from the date of such suspension, A.I.D. may, at its option, at any time or times thereafter, cancel all or any part of the Loan that is not then either disbursed or subject to irrevocable Letters of Credit.

Section 8.05. **CONTINUED EFFECTIVENESS OF AGREEMENT.** Notwithstanding any cancellation, suspension of disbursement, or acceleration of repayments, the provisions of this Agreement shall continue in full force and effect until the payment in full of all Principal hereunder.

Section 8.06. **REFUNDS.** (a) In the case of any disbursement not supported by valid documentation in accordance with the terms of this Agreement, or of any disbursement not made or used in accordance with the terms of this Agreement, A.I.D., notwithstanding the availability or exercise of any of the other remedies provided for under this Agreement, may require the Borrower to refund such amount in United States dollars to A.I.D. within thirty days after receipt of a request therefor. However, in the event that such disbursement was originally made in local currency and if A.I.D. determines that the amount of such refund can be used to pay the local currency costs of other goods and services approved for financing under the Loan, A.I.D. will accept such refund in local currency. All refunds shall be made available first for the cost of goods and services procured for the Program hereunder, to the extent justified; the remainder, if any, shall be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder. Notwithstanding any other provision in this Agree-

ment, A.I.D.'s right to require a refund with respect to any disbursement under the Loan shall continue for five years following the date of such disbursement.

(b) In the event that A.I.D. receives a refund from any contractor, supplier, or banking institution, or from any other third Party connected with the Loan, with respect to goods or services financed under the Loan, and such refund related to an unreasonable price for goods or services, or to goods that did not conform to specifications, or to services that were inadequate, A.I.D. shall first make such refund available for the cost of goods and services procured for the Program hereunder, to the extent justified; the remainder, if any, to be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder.

Section 8.07. EXPENSES OF COLLECTION. All reasonable costs incurred by A.I.D., other than salaries of its staff, in connection with the collection of any refund or in connection with amounts due A.I.D. by reason of the occurrence of any of the events specified in section 8.02 may be charged to the Borrower and reimbursed to A.I.D. in such manner as A.I.D. may specify.

Section 8.08. NONWAIVER OF REMEDIES. No delay in exercising or omission to exercise any right, power, or remedy accruing to A.I.D. under this Agreement shall be construed as a waiver of any such right, power, or remedy or of any other right, power, or remedy hereunder.

Article IX. MISCELLANEOUS

Section 9.01. COMMUNICATIONS. Any notice, request, documents, or other communication given, made, or sent by the Borrower or A.I.D. pursuant to this Agreement shall be in writing or by telegram, cable, or radiogram and shall be deemed to have been duly given, made, or sent to the Party to which it is addressed when it shall be delivered to such Party by hand or by mail, telegram, cable, or radiogram at the following addresses:

To Borrower:

Mail and cable address:
Ministro da Coordenação Económica
Praia, Cabo Verde

To A.I.D.:

Mail and cable address:
Director
Office of Africa Regional Affairs
Bureau for Africa
Agency for International Development
Washington, D.C. 20523

Borrower, in addition, shall provide the A.I.D. Representative, Amembassy, Lisbon, with a copy of each communication sent to A.I.D. Other addresses may be substituted for the above upon the giving of notice. All notices, requests, communications, and documents submitted to A.I.D. hereunder shall be in English, except as A.I.D. may otherwise agree in writing.

Section 9.02. REPRESENTATIVES. For all purposes relative to this Agreement, the Borrower will be represented by the individual holding or acting in the office of Ministro da Coordenação Económica. For the purpose of issuing Implementation Letters under this Agreement, A.I.D. will be represented by the individual holding or acting in the office of Director, Office of Africa Regional Affairs, A.I.D.

Such individuals shall have the authority to designate additional representatives by written notice. In the event of any replacement or other designation of a representative hereunder, Borrower shall submit a statement of the representative's name and specimen signature in form and substance satisfactory to A.I.D. Until receipt by A.I.D. of written notice of revocation of the authority of any of the duly authorized representatives of the Borrower designated pursuant to this section, it may accept the signature of any such representative or representatives on any instrument as conclusive evidence that any action effected by such instrument is duly authorized.

Section 9.03. IMPLEMENTATION LETTERS. A.I.D. shall, from time to time, issue Implementation Letters that will prescribe the procedures applicable hereunder in connection with the implementation of this Agreement.

Section 9.04. PROMISSORY NOTES. At such time or times as A.I.D. may request, the Borrower shall issue promissory notes or such other evidences of indebtedness with respect to the Loan, in such form, containing such terms, and supported by such legal opinions as A.I.D. may reasonably request.

Section 9.05. TERMINATION UPON FULL PAYMENT. Upon payment in full of the Principal, this Agreement and all obligations of the Borrower and A.I.D. under this Loan Agreement shall terminate.

IN WITNESS WHEREOF, the Borrower and the United States of America, each acting through its respective duly authorized representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

Transitional Government of Cape Verde:

By: [Signed]

Name: AMARO ALEXANDRE DA LUZ

Title: Ministro da Coordenação
Económica e Trabalho¹

United States of America:

By: [Signed]

Name: ROBERT L. CHAMBERLAIN

Title: Officer-in-Charge of A.I.D. Affairs
for Portuguese-Speaking Africa

A N N E X 1

DESCRIPTION OF PROGRAM

The Program will consist of labor-intensive rural works construction projects designed to improve and increase the soil and water resources available for agricultural production in the country of the Borrower.

Sub-projects will include such activities as:

- (1) the building of dikes in valley areas to catch alluvial soils washed down from the mountainsides as the result of sporadic, torrential downpours;

¹ Minister of Co-ordination for the Economy and Labour.

- (2) construction of retaining walls to prevent further erosion of soils into valley areas used for crop production;
 - (3) construction of stone and concrete aqueducts to permit the irrigation of valley areas reclaimed through the diking system;
 - (4) terracing of hillsides suitable for irrigated agriculture; and
 - (5) the clearing of rocks from areas that can be used for pasturage or crop production.
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FIRST AMENDMENT¹ TO LOAN AGREEMENT² BETWEEN THE TRANSITIONAL GOVERNMENT OF CAPE VERDE AND THE UNITED STATES OF AMERICA FOR AGRICULTURAL SECTOR SUPPORT (RURAL WORKS)

FIRST AMENDMENT

LOAN AGREEMENT AMENDMENT, dated the 23rd day of March 1976 between the TRANSITIONAL GOVERNMENT OF CAPE VERDE (“Borrower”) and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT (“A.I.D.”).

WHEREAS the Borrower and A.I.D. entered into an agreement dated 30 June 1975, pursuant to which A.I.D. agreed to lend Borrower \$3,000,000 for agriculture sector support;

WHEREAS section 496(b) of the Foreign Assistance Act of 1961, as amended, authorized the forgiveness of the liability of the Borrower to repay said Loan; and

WHEREAS A.I.D. desires to forgive said liability;

NOW, THEREFORE, the Parties agree as follows:

Section 1. The Loan Agreement dated 30 June 1975 between the Parties is amended as follows:

A. Delete sections 9.04 and 9.05 and add the following in lieu thereof:

“*Section 9.04.* FORGIVENESS OF LIABILITY TO REPAY. Notwithstanding any other section of this Agreement, A.I.D. forgives the Borrower the liability for repayment of the Loan, specifically releasing the Borrower from all liability under section 2.02.”

B. In section 4.10 delete “or until all sums due A.I.D. under this Agreement have been paid, whichever date shall first occur.”

C. In section 8.02 delete clauses (a) and (i).

D. Section 8.05 is amended to read as follows:

“*Section 8.05.* CONTINUED EFFECTIVENESS OF AGREEMENT. Notwithstanding any cancellation or suspension of disbursement, the provisions of this Agreement shall remain in full force and effect.”

E. In sections 8.06(a) and 8.06(b) delete the words: “the installments of Principal in the inverse order of their maturity and the amount of the Loan shall be reduced by the amount of such remainder” and substitute in each such section the words: “to reduce the amount of assistance provided under this Agreement”.

Section 2. EFFECTIVE DATE. The First Amendment shall become effective, and the date first appearing above shall be the date the last signature is made below.

Section 3. Except as specifically modified and amended hereby, the Loan Agreement dated 30 June 1975 shall remain in full force and effect. All references in said Agreement to the words “Loan Agreement” or “this Agreement” shall be deemed to mean the Loan Agreement as hereby amended. All references in said Agreement to the “Loan” shall be deemed to mean the Loan as hereby forgiven.

¹ Came into force on 23 March 1976 by signature, in accordance with section 2.

² See p. 26 of this volume.

IN WITNESS WHEREOF, the Borrower and the United States of America, each acting through its respective duly authorized representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

The Transitional Government
of Cape Verde:

By: [Signed]
Name: JOSÉ BRITO
Title: Directeur national de la coopération, Cap-Vert¹
Date: Le 23 mars 1976²

The United States
of America:

By: [Signed]
Name: DONALD F. MILLER
Title: Acting Director, Regional Economic Development Services Office, West Africa
Date: March 3, 1976

¹ National Director for Co-operation, Cape Verde.

² 23 March 1976.