

No. 16285

**UNITED STATES OF AMERICA
and
PAKISTAN**

**Loan Agreement — *Agricultural Inputs Loan* (with annex).
Signed at Islamabad on 9 March 1976**

**First Amendment to the above-mentioned Agreement.
Signed at Islamabad on 18 January 1977**

Authentic texts: English.

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

**ÉTATS-UNIS D'AMÉRIQUE
et
PAKISTAN**

**Accord de prêt — *Acquisition de facteurs de production
agricole* (avec annexe). Signé à Islamabad le 9 mars
1976**

**Premier amendement à l'Accord susmentionné. Signé à
Islamabad le 18 janvier 1977**

Textes authentiques : anglais.

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

LOAN AGREEMENT¹ (*AGRICULTURAL INPUTS LOAN*) BETWEEN THE PRESIDENT OF PAKISTAN AND THE UNITED STATES OF AMERICA

Dated: March 9, 1976

A.I.D. Loan No. 391-T-166

TABLE OF CONTENTS

<i>Section number</i>	<i>Title</i>	<i>Section number</i>	<i>Title</i>
Article I.	The Loan	Section 7.2.	Public sector procurement
Section 1.1.	The Loan	Section 7.3.	Reports
Section 1.2.	The Project	Section 7.4.	Communications
Article II.	Loan terms	Section 7.5.	Representatives
Section 2.1.	Interest	Section 7.6.	Implementation Letters
Section 2.2.	Repayment	Section 7.7.	A.I.D. Regulation I and Stand- ard Provisions Annex
Section 2.3.	Application, currency and place of payment	Section 7.8.	Termination upon full payment
Section 2.4.	Prepayment		Standard Provisions Annex
Section 2.5.	Renegotiation of the terms of the Loan	Article 100.	Covenants concerning procure- ment
Article III.	Conditions precedent to disburse- ment	Section 100.1.	Source of procurement
Section 3.1.	Conditions precedent to initial disbursement	Section 100.2.	Date of procurement
Section 3.2.	Terminal date for meeting con- ditions precedent to disburse- ment	Section 100.3.	Commissions, fees and sales commissions
Section 3.3.	Notification of meeting condi- tions precedent to disbursement	Section 100.4.	Minimum size of transac- tion
Article IV.	Disbursements	Article 101.	Covenants, representations and warranties concerning the Project
Section 4.1.	Disbursement for foreign ex- change costs—letters of com- mitment to United States banks	Section 101.1.	Execution of Project
Section 4.2.	Other forms of disbursement	Section 101.2.	Utilization of eligible items
Section 4.3.	Date of disbursement	Section 101.3.	Notice of material develop- ments
Section 4.4.	Issuance of commitment docu- ments and terminal shipping date	Section 101.4.	Insurance
Section 4.5.	Terminal date for disbursement	Article 102.	General covenants and warranties
Article V.	Special covenants	Section 102.1.	Taxation
Section 5.1.	Statement of agricultural policy	Section 102.2.	Maintenance and audit of records
Section 5.2.	Periodic reviews	Section 102.3.	Inspections
Section 5.3.	Research studies	Article 103.	Cancellation and suspension
Section 5.4.	Provision of data	Section 103.1.	Cancellation by the Bor- rower
Section 5.5.	Funds and resources to be pro- vided by Borrower	Section 103.2.	Events of default; accelera- tion
Article VI.	Trust fund	Section 103.3.	Suspension of disburse- ments
Section 6.1.	Trust fund	Section 103.4.	Cancellation by A.I.D.
Article VII.	Miscellaneous	Section 103.5.	Continued effectiveness of Agreement
Section 7.1.	Eligibility date	Section 103.6.	Refunds
		Section 103.7.	Expenses of collection
		Section 103.8.	Non-waiver of remedies

¹ Came into force on 9 March 1976 by signature.

AGREEMENT made and entered into as of the ninth day of March, 1976, between the PRESIDENT OF PAKISTAN ("Borrower") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.")

Article I. THE LOAN

Section 1.1. THE LOAN. Subject to the terms and conditions of this Agreement, A.I.D. hereby agrees to lend to Borrower pursuant to the Foreign Assistance Act of 1961, as amended ("the Act"), and Borrower agrees to borrow from A.I.D. up to forty million United States dollars (\$40,000,000) ("Loan") for the foreign exchange costs of commodities and commodity-related services required for the Project as defined in section 1.2. The funds disbursed hereunder are hereinafter referred to as "Principal". The commodities and services financed hereunder are hereinafter referred to as "Eligible Items". A.I.D. may decline to finance any eligible items when, in its judgment, said financing would be inconsistent with the purposes of the Loan or of the Act.

Section 1.2. THE PROJECT. As used in this Agreement, the "Project" shall mean the acquisition and importation of agricultural inputs required to maximize food production such as fertilizer, seeds and small-scale farm equipment in specific categories and amounts approved by A.I.D.

Article II. LOAN TERMS

Section 2.1. INTEREST. The Borrower shall pay to A.I.D. interest which shall accrue at the rate of two percent (2%) per annum for ten years following the date of the first disbursement hereunder and at the rate of three percent (3%) per annum thereafter on the outstanding balance of Principal and on any due and unpaid interest. Interest on the outstanding balance shall accrue from the date of each respective disbursement, as such date is defined in section 4.3, and shall be computed on the basis of a 365-day year. Interest shall be payable semiannually. The first payment of interest shall be due and payable no later than six (6) months after the first disbursement hereunder, on a date to be specified by A.I.D.

Section 2.2. 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 of Principal and interest. The first installment of Principal shall be payable nine and one-half (9½) years after the date on which the first interest payment is due in accordance with section 2.1. A.I.D. shall provide the Borrower with an amortization schedule in accordance with this section after the final disbursement under the Loan.

Section 2.3. APPLICATION, CURRENCY AND PLACE OF PAYMENT. All payments of interest and Principal hereunder shall be made in United States dollars and shall be applied first to the payment of interest due and then to the repayment of Principal. 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 2.4. PREPAYMENT. Upon payment of all interest and refunds then due, 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 2.5. RENEGOTIATION OF THE TERMS OF THE LOAN. The Borrower agrees to negotiate with A.I.D. at such time or times as A.I.D. may request, an acceleration of the repayment of the Loan in the event that there is any significant im-

provement in the internal and external economic and financial position and prospects of the country of the Borrower.

Article III. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 3.1. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT. Prior to the first disbursement or to the issuance of the first Letter of Commitment 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 Law of Pakistan or of other counsel acceptable to A.I.D. that this Agreement has been duly authorized 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) evidence of the authority of the person or persons who will act as the representative or representatives of Borrower specified in section 7.5 and a specimen signature of each such person certified as to its authenticity by either the person who renders the legal opinion or the person who executes the Agreement;
- (c) a report of the Borrower describing how the policies and programs set forth in section 5.1 are being carried out;
- (d) assurances that the Borrower is undertaking policy reviews described in section 5.2 on a periodic basis and is sharing the results of such reviews with A.I.D. in a timely manner;
- (e) such other evidence or documents as A.I.D. may reasonably require.

Section 3.2. TERMINAL DATE FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT. If all the conditions specified in section 3.1 shall not have been met within one hundred twenty (120) days from the date of this Agreement, or such later date as A.I.D. may agree in writing, A.I.D. at its option may terminate this Agreement by giving written notice to the Borrower. Upon giving such notice, this Agreement and all obligations of the Parties hereunder shall terminate.

Section 3.3. NOTIFICATION OF MEETING CONDITIONS PRECEDENT TO DISBURSEMENT. A.I.D. shall notify the Borrower upon determination by A.I.D. that the conditions precedent to disbursement in section 3.1 have been met.

Article IV. DISBURSEMENTS

Section 4.1. DISBURSEMENT FOR FOREIGN EXCHANGE 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 the foreign exchange costs of eligible items procured for the Project 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 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. In the case of payments due to United States suppliers of fertilizer and of services related thereto, A.I.D. will, at its option, issue Letters of Commitment directly to suppliers committing A.I.D. to make payments directly to them of amounts due under contracts between Borrower and such suppliers. Payments to such suppliers will be made upon presentation of such supporting documentation as A.I.D. may prescribe in Implementation Letters.

Section 4.2. 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 in writing.

Section 4.3. DATE OF DISBURSEMENT. Disbursements by A.I.D. shall be deemed to occur in the case of disbursements pursuant to section 4.1 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.

Section 4.4. ISSUANCE OF COMMITMENT DOCUMENTS AND TERMINAL SHIPPING DATE. Unless otherwise agreed in writing by A.I.D., the terminal date for issuance of Letters of Commitment under section 4.1 or other commitment documents under section 4.2 is September 30, 1976, and no Letter of Credit may be established having a commodity shipping date later than December 31, 1976, and an expiration date later than January 31, 1977.

Section 4.5. TERMINAL DATE FOR DISBURSEMENT. Except as A.I.D. may otherwise agree in writing, no disbursement shall be made against documentation received by A.I.D. after March 31, 1977. A.I.D., at its option, may at any time or times after March 31, 1977, reduce the Loan by all or any part thereof for which Letters of Commitment under section 4.1 or other commitment documents under section 4.2 have not been issued.

Article V. SPECIAL COVENANTS

Section 5.1. STATEMENT OF AGRICULTURAL POLICY. The Government of Pakistan has embarked upon a program to increase agricultural output substantially over the next five years. Production targets have been raised for the wheat crop and for other foodgrains and agricultural products. The purpose of the Project is increased availabilities and better balanced use of agricultural inputs throughout Pakistan by all farmers, particularly low-income farmers.

In order to assure that the purpose of the Project will be achieved and that the highest possible agricultural production can be attained, the Government of Pakistan shall continue to carry out policies and programs to assure (1) the adequacy of public and private sector distribution of fertilizer and other essential agricultural inputs, with particular emphasis upon the adequacy of farmers' access to such inputs in the more remote villages of Pakistan; (2) the adequacy of agricultural input credit facilities for farmers, particularly low-income farmers; (3) that the relationship of prices for farmers' crops to prices for agricultural inputs, particularly fertilizer, is sufficiently favorable to encourage the use of such inputs in quantities adequate to meet national food production targets; (4) that suitable measures are being taken to increase the efficiency in use of irrigation water; (5) that phosphate fertilizer as well as nitrogen fertilizer is being made available on an equitable basis to all fertilizer distribution organizations in Pakistan; (6) that imported fertilizer will be available to organizations constructing new fertilizer plants on at least the same basis as for other distributors so as to enable such organizations to develop experience in advance of their plants entering into production; (7) that marketing cost charges allowed to fertilizer distribution organizations are adequate to cover transportation, storage and marketing expenses; (8) that reasonable actions are taken to avoid excess fertilizer stock accumulations at domestic fertilizer plants in future years; and (9) that no unreasonable territorial restrictions will be placed on marketing of fertilizer by private producers.

Section 5.2. PERIODIC REVIEWS. (a) The Borrower shall continue periodic reviews of the policies and programs described in section 5.1 in order to assure that

the agricultural inputs financed by the Loan will make the fullest possible contribution to the achievement of Pakistan's agricultural production targets.

(b) The Borrower agrees to continue its periodic meetings with A.I.D. to discuss the results of its policy and program reviews and related matters. Such meetings shall also cover domestic production of inputs, stocks of inputs available in Pakistan, scheduled arrivals of imports of fertilizer and other inputs, and demand for fertilizer and other inputs, in order to develop a schedule of procurement for the agricultural inputs to be financed under the Loan. At such meetings the Borrower shall advise A.I.D. of its evaluation of the environment for distribution of fertilizer in both the public and private sectors.

(c) The Borrower shall periodically advise A.I.D. on steps to expand guidance programs for farmers on the use of fertilizers and other inputs, particularly in connection with the A.I.D.-assisted Dryland Agriculture Project.

Section 5.3. RESEARCH STUDIES. The Borrower shall conduct or cause to be conducted, in cooperation with A.I.D., studies to evaluate the effectiveness of fertilizer distribution systems in Pakistan and to monitor the effects of the Project on fertilizer distribution and use. A.I.D. and the Borrower shall periodically consult on the progress and results of these and other ongoing studies relating to fertilizer distribution problems and problems of low-income farmers.

Section 5.4. PROVISION OF DATA. Except as A.I.D. may otherwise agree in writing, the Borrowers shall on a monthly basis provide A.I.D. with current data on fertilizer sales, fertilizer stocks and fertilizer imports arranged and received.

Section 5.5. FUNDS AND 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 Project. It is understood that the contributions of the Borrower shall constitute at least twenty-five percent (25 %) of the costs of the entire Project.

Article VI. TRUST FUND

Section 6.1. TRUST FUND. In addition to the payment of interest and repayments of Principal due under sections 2.1 and 2.2, the Borrower shall deposit the sum of seventy million one hundred twenty thousand Pakistan rupees (Rs. 70,120,000) in the A.I.D. Trust Account for the purpose of financing Pakistan rupee costs incurred by the USAID Mission to Pakistan (including building maintenance costs in support of United Nations agencies in Islamabad) during the period May 1, 1976, to June 30, 1978, in connection with the cooperative development program of the Borrower and the United States. Such deposits shall be made in accordance with the following installment schedule:

May 1, 1976	Rs. 3,320,000
July 1, 1976	7,925,000
October 1, 1976	7,925,000
January 1, 1977	7,925,000
April 1, 1977	7,925,000
July 1, 1977	8,775,000
October 1, 1977	8,775,000
January 1, 1978	8,775,000
April 1, 1978	8,775,000
TOTAL	Rs. 70,120,000

Article VII. MISCELLANEOUS

Section 7.1. ELIGIBILITY DATE. As used in this Agreement, "eligibility date" shall be May 14, 1975, for wheat seed procurement; October 1, 1975, for phosphatic fertilizer procurement; and the date of this Agreement for all other eligible commodities.

Section 7.2. PUBLIC SECTOR PROCUREMENT. Except as A.I.D. may otherwise agree in writing, all commodities financed under the Loan shall be procured by public sector agencies of the Borrower and shall be eligible for financing hereunder only if procured through formal competitive bid procedures in accordance with section 201.22 of A.I.D. Regulation I. Arrangements for the procurement of any fertilizers or public sector commodity financed hereunder, including invitations for bids and contract documents, shall be reviewed and approved by A.I.D.

Section 7.3. REPORTS. Borrower shall furnish A.I.D. with such information and reports relating to eligible items and the Project (including arrangements for procurement, plans for commodity utilization, and delivery schedules) as A.I.D. may reasonably request.

Section 7.4. COMMUNICATIONS. Any notice, request, document 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 address:

Economic Affairs Division
Ministry of Finance
Planning and Economic Affairs
Islamabad

Cable address:

ECONOMIC
Islamabad

To A.I.D.:

Mail address:

United States Agency for International Development
Islamabad, Pakistan

Cable address:

USAIDPAK
Islamabad

Other addresses may be substituted for the above upon giving of notice as provided herein. 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 7.5. REPRESENTATIVES. For all purposes relative to this Agreement, the Borrower will be represented by the individual holding or acting in the offices of Secretary, Joint Secretary and Deputy Secretary, Economic Affairs Division; and A.I.D. will be represented by the individual holding or acting in the office of Director, A.I.D. Mission to Pakistan. Such individuals shall have the authority to designate by written notice additional representatives. 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 as conclusive evidence that any action effected by such instrument is duly authorized.

Section 7.6. 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 7.7. A.I.D. REGULATION I AND STANDARD PROVISIONS ANNEX. Except as A.I.D. may otherwise specify in writing, A.I.D. Regulation I, as from time to time amended and in effect as of the time of each relevant transaction, and the Standard Provisions Annex attached hereto are hereby incorporated herein and made a part hereof. If any provision of this Agreement or the said annex is inconsistent with any provision of A.I.D. Regulation I, this Agreement or the said annex shall govern. The definitions contained in A.I.D. Regulation I shall be applicable to this Agreement and to said annex. Reference in said annex to "this Agreement" are to this Agreement.

Section 7.8. TERMINATION UPON FULL PAYMENT. Upon payment in full of the Principal and of any accrued interest, 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.

Government of Pakistan:

By: [Signed]

Name: AFTAB AHMAD KHAN

Title: Secretary, Economic Affairs Division

United States of America:

By: [Signed]

Name: HENRY A. BYROADE

Title: The Ambassador of the United States of America

STANDARD PROVISIONS ANNEX

Article 100. COVENANTS CONCERNING PROCUREMENT

Section 100.1. SOURCE OF PROCUREMENT. Except as A.I.D. may otherwise agree in writing, all fertilizers shall have their source and origin in the United States of America (A.I.D. Geographic Code 000) in accordance with A.I.D. regulations; and all other eligible items shall have their source and origin in countries listed in A.I.D. Geographic Code 941 in accordance with A.I.D. regulations. Ocean shipping and marine insurance financed under the Loan shall have both their source and origin in countries listed in A.I.D. Geographic Code 941 in accordance with A.I.D. regulations.

Section 100.2. DATE OF PROCUREMENT. No commodity or commodity related services may be financed hereunder which was the subject of an order or contract firmly placed or entered into prior to the eligibility date.

Section 100.3. COMMISSIONS, FEES AND SALES COMMISSIONS. (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 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 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.

(c) A.I.D. from time to time may issue binding instructions concerning the eligibility for financing hereunder of commissions, including brokerage commissions and commissions paid to sales agents of suppliers, and allowances to purchasing agents or importers. Borrower agrees to comply with such instructions, to promptly report to A.I.D. any payment or allowance, or agreement to pay or permit any commissions or allowances, covered by such instructions of which it has knowledge and to reimburse A.I.D. on request, in the amount of any payment or allowance made or permitted contrary to such instructions; provided, however, that this paragraph shall apply only to commissions or allowances arising from contracts or orders made or placed after the receipt by Borrower of notice of such instructions.

Section 100.4. MINIMUM SIZE OF TRANSACTION. Except where authorized by A.I.D. in writing, no Letters of Credit issued pursuant to this Agreement shall be in an amount less than ten thousand United States dollars (\$10,000).

Article 101. COVENANTS, REPRESENTATIONS AND WARRANTIES CONCERNING THE PROJECT

Section 101.1. EXECUTION OF PROJECT. Borrower shall carry out the Project with due diligence and efficiency and in conformity with sound financial, administrative and procurement arrangements satisfactory to A.I.D. Borrower shall obtain A.I.D. concurrence prior to any material modifications or cancellation of any such arrangements, or any other arrangements, contracts, plans, specifications, or other documents or submissions approved by A.I.D.

Section 101.2. UTILIZATION OF ELIGIBLE ITEMS. Borrower shall use its best efforts to prevent the use of eligible items to promote or assist any project or activity associated with or financed by any country not included in Code 899 of A.I.D. Geographic Book as in effect at the time of such projected use except with the prior written consent of A.I.D.

Section 101.3. NOTICE OF MATERIAL DEVELOPMENTS. Borrower represents and warrants that it has disclosed to A.I.D. all circumstances which may materially affect the Project or the discharge of Borrower's obligations under this Agreement and covenants that it will inform A.I.D. of any conditions which interfere, or which it is reasonable to believe will interfere, with the Project or the discharge of Borrower's obligations under this Agreement.

Section 101.4. INSURANCE. The Borrower shall insure, or cause to be insured, all commodities financed under the Loan against risks incident to their transit to the port of entry in the country of the Borrower. Such insurance shall be issued upon terms and conditions consistent with sound commercial practice, shall insure the full value of the commodities, and shall be payable in the currency in which such goods are financed. Any indemnification received by the Borrower under such insurance shall be used to replace or repair any material damage or

any loss of the commodities insured or shall be used to reimburse the Borrower for the replacement or repair of such commodities. Any such replacements shall be of eligible source and origin and otherwise subject to the provisions of this Agreement.

Article 102. GENERAL COVENANTS AND WARRANTIES

Section 102.1. TAXATION. This Agreement, and the Loan, shall be free from, and the Principal and interest shall be paid without deduction for and be free from, any taxation or fees imposed under the laws in effect within the country of the Borrower. To the extent that any commodity procurement transaction financed hereunder is not exempt from identifiable taxes, tariffs, duties and other levies imposed under laws in effect within the country of the Borrower, the same shall not be paid with funds provided under the Loan.

Section 102.2. 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 Project and to this Agreement. Such books and records shall, without limitation, be adequate to show:

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

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 102.3. INSPECTIONS. The authorized representatives of A.I.D. shall have the right at all reasonable times to inspect the utilization of all goods and services financed under the Loan, and the Borrower's books, records and other documents relating to the Project 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 Pakistan for any purpose relating to the Loan.

Article 103. CANCELLATION AND SUSPENSION

Section 103.1. CANCELLATION BY THE BORROWER. The Borrower may, with the prior written consent of A.I.D., 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 or through bank payments made other than under irrevocable Letters of Credit.

Section 103.2. EVENTS OF DEFAULT; ACCELERATION. If any one or more of the following events ("Events of Default") shall occur:

- (a) the Borrower shall have failed to pay when due any interest or installment of Principal required under this Agreement,
- (b) the Borrower shall have failed to comply with any other provision of this Agreement, or with any applicable provisions of A.I.D. Regulation I, or
- (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., in addition to the remedies provided in A.I.D. Regulation I, may, at its option, give to the Borrower notice that all or any part of the unrepaid Principal shall be due and payable sixty (60) days thereafter, and, unless the event of default is cured within such sixty (60) days:

- (i) such unrepaid Principal and any accrued interest hereunder 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 103.3. SUSPENSION OF DISBURSEMENTS. In the event that at any time:

- (a) an Event of Default 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 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., in addition to the remedies provided in A.I.D. Regulation I 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; and
- (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 103.4. CANCELLATION BY A.I.D. Following any suspension of disbursements pursuant to section 103.3, 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 103.5. CONTINUED EFFECTIVENESS OF AGREEMENT. Notwithstanding any cancellation, suspension of disbursement or acceleration of repayment, the provisions of this Agreement shall continue in full force and effect until the payment in full of all Principal and any accrued interest hereunder.

Section 103.6. REFUNDS. (a) In the case of any disbursements 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 or in A.I.D. Regulation I, may require the Borrower to refund such amount in United States dollars to A.I.D. within thirty (30) days after receipt of a request therefor. Such amount shall be applied to the installments of Principal in the inverse order of their maturity. Notwithstanding any other provision in this Agreement, A.I.D.'s rights 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 commodities or services financed under the Loan, and such refund relates to an unreasonable price for commodities or services, or to commodities that did not conform with specifications, or to services that were inadequate, A.I.D. shall permit Borrower to re-use such refunds if the terminal date for disbursements under section 4.5 has not passed and there is sufficient time for the

Borrower to utilize the funds before such terminal date. In the event that the terminal date for disbursement has passed or there is not sufficient time to utilize the funds before the terminal date, the refund shall be applied to the installments of Principal in the inverse order of their maturity.

Section 103.7. 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 103.2 may be charged to the Borrower and reimbursed to A.I.D. in such manner as A.I.D. may specify.

Section 103.8. NON-WAIVER 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 of such rights, powers or remedies.

FIRST AMENDMENT¹ TO THE LOAN AGREEMENT² (*AGRICULTURAL INPUTS LOAN*) BETWEEN THE PRESIDENT OF PAKISTAN AND THE UNITED STATES OF AMERICA

Dated: January 18, 1977

A.I.D. Loan No.391-T-166

FIRST AMENDMENT made and entered into this 18th day of January 1977 to the Loan Agreement dated March 9, 1976 ("Loan Agreement"), between the PRESIDENT OF PAKISTAN ("Borrower") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

The Loan Agreement is hereby amended as follows:

1. Section 1.1 is deleted in its entirety and the following is substituted in lieu thereof:

"*Section 1.1. THE LOAN.* Subject to the terms and conditions of this Agreement, A.I.D. hereby agrees to lend to the Borrower, pursuant to the Foreign Assistance Act of 1961, as amended ("the Act"), and the Borrower agrees to borrow from A.I.D. up to sixty-five million United States dollars (\$65,000,000) for the foreign exchange costs of commodities and commodity-related services required for the Project as defined in section 1.2. The amount loaned hereunder shall be deemed to consist of (i) an amount not to exceed forty million United States dollars (\$40,000,000) ("Loan, Part I"), and (ii) an amount not to exceed twenty-five million United States dollars (\$25,000,000) ("Loan, Part II"). Loan, Part I, and Loan, Part II, are hereinafter collectively referred to as the "Loan". The aggregate amount of disbursements under the Loan is hereinafter referred to as "Principal". The commodities and services financed hereunder are hereinafter referred to as "Eligible Items". A.I.D. may decline to finance any eligible items when, in its judgment, said financing would be inconsistent with the purposes of the Loan or of the Act."

2. Section 3.1. is retitled *Section 3.1.1. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT UNDER LOAN, PART I.*

3. Immediately following section 3.1.1, section 3.1.2 shall be added as follows:

"*Section 3.1.2. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT UNDER LOAN, PART II.* Prior to the first disbursement or to the issuance of the first Letter of Commitment under the Loan, Part II, 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 Law of Pakistan or of other counsel acceptable to A.I.D. that this First Amendment has been duly authorized 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 plan to improve Pakistan's capability to offload and bag fertilizer imports; and

"(c) such other evidence or documents as A.I.D. may reasonably require."

¹ Came into force on 18 January 1977 by signature.

² See p. 438 of this volume.

4. Section 3.2 is retitled *Section 3.2.1*. TERMINAL DATE FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT UNDER LOAN, PART I, and the reference therein to section 3.1 shall be deemed to refer to section 3.1.1 as renumbered by this First Amendment.

5. Immediately following section 3.2.1, section 3.2.2 shall be added as follows:

“*Section 3.2.2*. TERMINAL DATE FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT UNDER LOAN, PART II. If all the conditions specified in section 3.1.2 shall not have been met within sixty (60) days from the date of this First Amendment, or such later date as A.I.D. may agree in writing, A.I.D. at its option may terminate this First Amendment by giving written notice to the Borrower. Upon giving such notice, this First Amendment and all obligations of the Parties hereunder shall terminate.”

6. Section 3.3 shall be deemed to apply to the conditions precedent of section 3.1.2 as well as section 3.1.1.

7. Section 4.4 is amended by deleting the date “September 30, 1976,” and inserting in lieu thereof “April 15, 1977,” by deleting the date “December 31, 1976,” and inserting in lieu thereof “May 1, 1977,” and by deleting the date “January 31, 1977,” and inserting in lieu thereof “June 1, 1977”.

8. Section 4.5 is amended by deleting the date “March 31, 1977,” in both places it appears therein, and inserting in lieu thereof “July 15, 1977,” in both places.

9. Immediately following section 5.5, section 5.6 shall be added as follows:

“*Section 5.6*. IMPROVED CAPABILITY TO OFFLOAD AND BAG FERTILIZER IMPORTS. The Borrower shall carry out steps agreed upon by the Borrower and A.I.D. pursuant to the plan for improving Pakistan’s capability to offload and bag fertilizer imports which is provided for in section 3.1.2(b).”

10. Except as specifically modified and amended hereby, the Loan Agreement shall remain in full force and effect.

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

Government of Pakistan:

By: [Signed]

Name: AFTAB AHMAD KHAN

Title: Secretary

Economic Affairs Division

United States of America:

By: [Signed]

Name: HENRY A. BYROADE

Title : The Ambassador
of the United States of America