

No. 16625

**UNITED STATES OF AMERICA
and
PERU**

**Loan Agreement for agricultural cooperative federations
development (with annex). Signed at Lima on 29 Sep-
tember 1976**

Authentic texts: English and Spanish.

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

**ÉTATS-UNIS D'AMÉRIQUE
et
PÉROU**

**Accord de prêt relatif au développement de centrales de
coopératives agricoles (avec annexe). Signé à Lima le
29 septembre 1976**

Textes authentiques : anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 27 avril 1978.

LOAN AGREEMENT¹ BETWEEN THE REPUBLIC OF PERU AND THE UNITED STATES OF AMERICA FOR AGRICULTURAL COOPERATIVE FEDERATIONS DEVELOPMENT

Date: September 29, 1976

A.I.D. No. 527-T-058

LOAN AGREEMENT dated the twenty-ninth day of September 1976, between the REPUBLIC OF PERU ("Borrower"), and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

Article I

Section 1.01. THE LOAN. A.I.D. agrees to lend to the Borrower pursuant to Section 103 of the Foreign Assistance Act of 1961, as amended, an amount not to exceed seven million United States dollars (\$ 7,000,000) ("Loan") to assist the Borrower in carrying out the project referred to in Section 1.02 ("Project"). The Loan shall be used exclusively to finance United States dollar costs ("Dollar Costs") and a portion of the local currency costs ("Local Currency Costs") of goods and services required for the Project. The aggregate amount of disbursements under the Loan is hereinafter referred to as "Principal".

Section 1.02. THE PROJECT. The Project consists of the implementation of a program of technical and financial assistance to a group of not more than 20 selected Federations of Agricultural Cooperatives ("Centrals"). Of the seven million U.S. dollars (US\$ 7,000,000) provided by the Loan, up to one hundred thousand U.S. dollars (US\$ 100,000) will be used for technical assistance in Project planning, implementation, and evaluation, and up to one million U.S. dollars (US\$ 1,000,000) will be used for the preparation of Development Plans for the selected Centrals.

In addition, a Central Development Fund ("Fund") will be established with the balance of five million nine hundred thousand U.S. dollars (US\$ 5,900,000) of Loan funds from which credits will be extended to finance working capital needs, investments in fixed assets for the provision of services, and investments in fixed assets for agro-industrial projects. The Borrower will contribute to the Fund the equivalent of seven million U.S. dollars (US\$ 7,000,000) which will be used to provide short-term credit for lending to the Centrals as well as to their member organizations.

The Project is described in more detail in the Annex attached hereto, which Annex may be modified in writing by mutual agreement of the parties.

Section 1.03. IMPLEMENTING AGENCY. The Borrower hereby designates the Agrarian Bank of Peru ("Bank") as Implementing Agency for the purpose of carrying out the Project described in Section 1.02. The Bank, as Implementing Agency, will enter into an agreement or agreements with the Ministry of Agriculture, acting through the Division of Support to Campesino Enterprises, as may be necessary for the utilization of the Loan funds allocated for technical assistance and the preparation of Central Development Plans.

Section 1.04. USE OF FUNDS GENERATED BY OTHER UNITED STATES ASSISTANCE. The Borrower shall use for the Project, in lieu of any United States dollars that

¹ Came into force on 29 September 1976 by signature.

would otherwise be disbursed under the Loan to finance the Local Currency Costs of the Project, Peruvian soles that may become available to the Borrower after the date of this Agreement in connection with assistance (other than the Loan) provided by the United States of America to the Borrower to the extent and for the purposes that A.I.D. and the Borrower may agree to in writing. Any such funds used for the Project shall reduce the amount of the Loan (to the extent that it shall not then have been disbursed) by an equivalent amount of United States dollars computed, as of the date of the agreement between A.I.D. and the Borrower as to the use of such funds, at the rate of exchange between United States dollars and Peruvian soles which yields the greatest number of soles and which is not unlawful in Peru.

Article II. LOAN TERMS

Section 2.01. 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 7.04) 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 2.02. 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 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 2.01. 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 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 Agency for International Development, Cashier, SER/CONT, Washington, D.C. 20523, and shall be deemed made when received by the Office of the Cashier.

Section 2.04. PREPAYMENT. Upon payment of all interest, Principal, and refunds then due, the Borrower may prepay, without any other charges, 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 agrees to negotiate with A.I.D. an acceleration of the repayment of the Loan at any time or times as A.I.D. or the Borrower may request. The parties hereto shall mutually determine whether such an acceleration shall take place on the basis of the following criteria:

- (i) The capacity of Borrower to service a more rapid liquidation of its obligations in the light of the internal and external financial position of Peru, taking into account debts owing to any agency of the United States of America, or to any international organization of which the United States of America is a member; and
- (ii) The relative capital requirements of Borrower and of the other signatories of the Act of Bogota¹ and the Charter of Punta del Este.²

¹ United States of America, *Department of State Bulletin*, 3 October 1960.

² *Ibid.*, 11 September 1961.

Article III. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 3.01. CONDITIONS PRECEDENT TO INITIAL DISBURSEMENT OF LOAN FUNDS. Prior to any 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 or opinions of the Director General of the General Department of Legal Counsel of the Ministry of Economy and Finance, or of other counsel satisfactory to A.I.D. that this Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, Borrower, and constitutes a valid and binding obligation of Borrower, in accordance with its terms;
- (b) Evidence of the authority of the person or persons who will act as representative or representatives of Borrower pursuant to Section 9.02, together with a specimen signature of each such person duly certified as to its authenticity;
- (c) Evidence of the opening of a special account for the establishment of the Fund within the Agrarian Bank;
- (d) Evidence of the availability of sufficient and timely Borrower contributions to the Project;
- (e) A time-phased Project Implementation Plan which shall include *inter alia*, a description of the functions of the various governmental agencies participating in the Project and provisions for adequate staffing of such agencies.

Section 3.02. CONDITION PRECEDENT TO DISBURSEMENT OF FUNDS FOR ANY PURPOSE OTHER THAN FOR TECHNICAL ASSISTANCE. Prior to any disbursement or the issuance of any commitment documents under the Loan for any purpose other than to finance up to \$100,000 of technical assistance, the Borrower's Implementing Agency shall submit to A.I.D. in form and substance satisfactory to A.I.D. terms of reference for the preparation of Central Development Plans to be financed under the Project.

Section 3.03. CONDITIONS PRECEDENT TO DISBURSEMENT FOR INDIVIDUAL CENTRALS. Prior to any disbursement or the issuance of any commitment documents under the Loan for any individual Central for any purpose other than to finance the formulation of a comprehensive development plan for that Central ("Development Plan"), the Borrower shall submit to A.I.D. such Development Plan which shall conform to the terms of reference submitted pursuant to Section 3.02.

Section 3.04. TERMINAL DATES FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT. (a) 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 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.

(b) If all of the conditions specified in Section 3.02 shall not have been met within one hundred fifty (150) 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 cancel the then undisbursed balance of the amount of the Loan in whole or in part or may terminate this Agreement by giving written notice to the Borrower. In the event of a termination, upon the giving of notice, the Borrower shall immediately repay the Principal then outstanding and shall pay any accrued interest, and, upon receipt of such payments in full, this Agreement and all obligations of the parties hereunder shall terminate.

Section 3.05. NOTIFICATION OF MEETING OF CONDITIONS PRECEDENT TO DISBURSEMENT. A.I.D. shall notify the Borrower when the conditions precedent to disbursement specified in Sections 3.01, and as the case may be, 3.02 and 3.03 of this Loan Agreement have been met.

Article IV. GENERAL COVENANTS AND WARRANTIES

Section 4.01. EXECUTION OF THE PROJECT. The Borrower shall cause the Project to be carried out with due diligence and efficiency, and in conformity with sound financial and administrative practices, and also in accordance with all of the plans, specifications, contracts, schedules, and other arrangements, including all modifications therein, approved by A.I.D. pursuant to this Agreement.

Section 4.02. FUNDS AND OTHER RESOURCES TO BE PROVIDED BY THE BORROWER. The Borrower shall provide or cause to be provided 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 including but not limited to the contribution stated in Section 5.01(a).

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 Project, the performance by the parties to this agreement of their obligations under this Agreement, the performance of the consultants, contractors and suppliers engaged in the Project, and other matters relating to the Project.

Section 4.04. MANAGEMENT. The Borrower shall cause to be provided qualified and experienced management for the Project, and shall cause to be trained such staff as may be appropriate for the successful organization, development, maintenance, operation and evaluation of the Project.

Section 4.05. TAXATION. This Agreement, the Loan, and any evidence of indebtedness issued in connection herewith shall be free from, and the Principal and interest shall be paid without deduction for and free from any taxation or fees imposed under the laws in effect within the Republic of Peru. To the extent that (a) any contractor, including any consulting firm, any personnel of such contractor financed hereunder, and any property or transactions relating to such contracts and (b) any commodity procurement transaction financed hereunder are not exempt from identifiable taxes, tariffs, duties, and other levies imposed under laws in effect in the Republic of Peru, 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 by A.I.D. under the Loan.

Section 4.06. UTILIZATION OF GOODS AND SERVICES. (a) Goods and services financed under the Loan shall be used exclusively for the Project, except as the Borrower and A.I.D. may otherwise agree in writing.

(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 4.07. 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 Project 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 Project or the discharge of the Borrower's obligations under this Agreement.

Section 4.08. COMMISSIONS, FEES AND OTHER PAYMENTS. (a) The Borrower warrants that in connection with obtaining the Loan, or taking any action under or with

respect to this Agreement, it has not paid, or 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 they are a party or of which they have 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, the same shall be adjusted in a satisfactory manner.

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

Section 4.09. 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 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
- (d) the progress, both fiscal and qualitative, of the Project.

Such books and records shall be regularly audited by auditors acceptable to A.I.D. 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 4.10. REPORTS. The Borrower shall furnish to A.I.D. such information and reports relating to the Loan and to the Project as A.I.D. may request.

Section 4.11. INSPECTIONS. The authorized representatives of A.I.D. shall have the right at all reasonable times to inspect the Project, the utilization of all goods, facilities 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 any visits by representatives of A.I.D. for any purpose relating to the Project.

Article V. SPECIAL COVENANTS AND WARRANTIES

Section 5.01. SPECIAL COVENANTS AND WARRANTIES. The Borrower covenants:

- (a) That it will provide as its contribution to the Project the equivalent of at least \$7,000,000;
- (b) That it will provide, or cause to be provided, sufficient and timely technical assistance support and extension services as the Project shall require;
- (c) That there will be held annually a joint Project evaluation with the participation of A.I.D. and the Implementing Agency;
- (d) That no substantive changes will be made in the plans, regulations, or other evidence submitted in response to Article III of this Agreement without the written consent of A.I.D.

Article VI. PROCUREMENT

Section 6.01. PROCUREMENT FROM A.I.D. CODE 941 COUNTRIES. Except as A.I.D. may otherwise agree in writing, and except as provided in Section 6.07(c) hereof with respect to marine insurance, disbursements made pursuant to Section 7.01 shall be used exclusively to finance the procurement for the Project of goods and services having both their source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time the orders are placed or contracts are entered into for such goods and services ("Code 941 Goods and Services"). Notwithstanding any other provisions herein, motor vehicles to be procured with Loan funds must be manufactured in the United States. All ocean shipping financed under the Loan shall have both 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 PERU. Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to Section 7.02 shall be used exclusively to finance the procurement for the Project of goods and services having both their source and origin in Peru.

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. IMPLEMENTATION OF PROCUREMENT REQUIREMENTS. The definitions applicable to eligibility requirements of Sections 6.01 and 6.02 will be set forth in detail in Implementation Letters.

Section 6.05. PLANS, SPECIFICATIONS AND CONTRACTS. (a) The Borrower shall furnish or cause to be furnished to A.I.D. upon request all plans, specifications, bid documents, and contracts relating to the Project and any modifications therein, relating to goods and services to be financed under the Loan.

(b) Except as A.I.D. may otherwise agree in writing, all such plans, specifications, bid documents, and contracts furnished pursuant to sub-section (a) above shall be approved by A.I.D. in writing.

Section 6.06. REASONABLE PRICE. No more than reasonable prices shall be paid for any goods or services financed, in whole or 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 established procedures prescribed in Implementation Letters.

Section 6.07. SHIPPING AND INSURANCE. (a) A.I.D. Code 941 Goods financed under the Loan shall be transported to the Republic of Peru on flag carriers of the Republic of Peru or any other country included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of shipment. No such goods may be transported on any ocean vessel (or aircraft):

- (i) which A.I.D. in a notice to the Borrower has designated as ineligible to carry A.I.D. financed goods or;
- (ii) which has been chartered for the carriage of A.I.D.-financed goods unless such charter has been approved by A.I.D.

(b) Unless A.I.D. shall determine that privately-owned United States-flag commercial vessels are not available at fair and reasonable rates for such vessels:

- (i) at least fifty percent (50%) of the gross tonnage of Code 941 Goods financed under the Loan and transported on ocean vessels from United States ports (computed separately for dry bulk carriers, dry cargo liners, and tankers) shall be transported on privately-owned United States-flag commercial vessels; and at least fifty percent (50%) of the gross freight revenue generated by ocean shipment of Code 941 Goods

financed under the Loan and transported on dry cargo liners from United States ports shall be paid to or for the benefit of privately-owned United States-flag commercial vessels;

- (ii) at least fifty percent (50%) of the gross tonnage of all Code 941 Goods financed under the Loan and transported on ocean vessels from non-United States ports (computed separately for dry bulk carriers, dry cargo liners, and tankers) shall be transported on privately-owned United States-flag commercial vessels, and at least fifty percent (50%) of the gross freight revenue generated by ocean shipments of Code 941 Goods financed under the Loan and transported on dry cargo liners from non-United States ports shall be paid to or for the benefit of privately-owned United States-flag commercial vessels.

(c) Marine insurance on Code 941 Goods may be financed under the Loan with disbursements made pursuant to Section 7.01, provided:

- (i) such insurance is placed at the lowest available competitive rate in Peru or in a country included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time of payment, and
- (ii) claims thereunder are payable in freely convertible currency.

If in connection with the placement of marine insurance on shipments financed under United States legislation authorizing assistance to other nations, the Republic of Peru, by statute, decree, rule or regulation, favors any marine insurance company of any country over any marine insurance company authorized to do business in any State of the United States of America, Code 941 Goods financed under the Loan shall during the continuance of such discrimination be insured against marine risk in the United States of America with a company or companies authorized to do marine insurance business in any State of the United States of America.

(d) The Borrower shall insure, or cause to be insured, all Code 941 Goods financed under the Loan against risks incident to their transit to the point of their use in the Project. Such insurance shall be issued upon terms and conditions consistent with sound commercial practice, shall insure the full value of the goods, and shall be payable in the currency in which such goods were financed or in any freely convertible currency. Any indemnification received by the Borrower under such insurance shall be used to replace or repair any material damage or any loss of 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 6.08. NOTIFICATION TO POTENTIAL SUPPLIERS. In order that all United States firms shall have the opportunity to participate in furnishing goods and services to be financed under the Loan pursuant to Section 7.01, 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 6.09. UNITED STATES GOVERNMENT-OWNED EXCESS PROPERTY. The Borrower shall utilize, with respect to goods financed under the Loan to which the Borrower takes title at the time of procurement, such reconditioned United States Government-owned Excess Property as may be consistent with the requirements of the Project and acceptable by the Borrower. The Borrower shall seek assistance from A.I.D. and A.I.D. will assist the Borrower in ascertaining the availability of and in obtaining such Excess Property. A.I.D. will make arrangements for any necessary inspection of such property by the Borrower or its representative. The costs of inspection and of acquisition, and all charges incident to the transfer to the Borrower of such Excess Property, may be financed under the Loan.

Section 6.10. GOODS AND SERVICES NOT FINANCED UNDER THE LOAN. Goods and services procured for the Project, but not financed under the Loan, shall have their source and origin in countries 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 6.11. INFORMATION AND MARKING. Borrower shall give publicity to the Loan and the Project as a joint undertaking of the United States and Peru and shall identify the Project sites and mark goods financed under the Loan, as prescribed in Implementation Letters.

Article VII. DISBURSEMENTS

Section 7.01. DISBURSEMENT FOR UNITED STATES DOLLAR COSTS—LETTER 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 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 Letters of Commitment and Implementation Letters.

United States 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. DISBURSEMENTS FOR LOCAL CURRENCY COSTS. Upon satisfaction of conditions precedent, the Borrower may, from time to time, request disbursement by A.I.D. of Peruvian soles for Local Currency Costs of goods and services procured or to be procured for the Project in accordance with the terms and conditions of this Agreement by submitting to A.I.D. such supporting documents as A.I.D. may prescribe in Implementation Letters. A.I.D. shall make such disbursements from soles owned by the United States Government and obtained by A.I.D. with United States dollars. The United States dollar equivalent of the soles made available hereunder will be the amount of United States dollars required by A.I.D. to obtain the soles.

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. Disbursement 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 OF DISBURSEMENT. Except as A.I.D. may otherwise agree in writing, no Letter of Commitment, or other commitment documents which may be called for by another form of disbursement under Section 7.03, or amendment thereto, shall be issued in response to requests received by A.I.D. more than thirty (30) months after satisfaction of the conditions precedent specified in Section 3.01 and no disbursement shall be made against documentation received by A.I.D. or any bank described in Section 7.01 more than thirty-six (36) months after satisfaction of the conditions precedent specified in Section 3.01.

A.I.D., at its option, may at any time or times after such thirty-six (36) months 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, with 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 by then been utilized through the issuance of irrevocable Letters of Credit or through bank payments made other than under irrevocable Letters of Credit.

Section 8.02. 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, including, but without limitation, the obligation to carry out the Project in the manner hereby agreed upon;
- (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, 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, 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 outstanding irrevocable Letters of Credit or otherwise shall become due and payable as soon as made.

Section 8.03. SUSPENSION OF DISBURSEMENT. If any one of the following shall occur:

- (a) An Event of Default (per Section 8.02);
- (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.;
- (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, or any other agreement between the Borrower or any of its agencies and the Government of the United States or any of its agencies;
- (e) Satisfactory progress is not being made in carrying out all or any part of the Project in accordance with the terms of this Agreement;

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 Peru.

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 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 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 (30) days after receipt of a request therefor. Such amount shall be made available first for the cost of goods and services procured for the Project 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 Agreement, 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 relates 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 Project hereunder, to the extent justified, the remainder 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 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 rights, powers, or remedies.

Article IX. MISCELLANEOUS

Section 9.01. 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:

Ministry of Economy and Finance
Avenida Abancay
Lima, Peru

Cable Address:

MINECONOMIA
Lima, Peru

With copies to:

The General Directorate of Public Credit

To Implementing Agency:

Mail Address:

Agrarian Bank
Carabaya 543
Lima, Peru

Cable Address:

AGROBANK
Lima, Peru

To A.I.D.:

Mail Address:

USAID Mission to Peru
American Embassy
Lima, Peru

Cable Address:

USAID, AMEMBASSY
Lima, Peru

Other addresses may be substituted for the above upon giving notice. All notices, requests, communications, and documents submitted to A.I.D. hereunder may be in Spanish and shall refer to "Loan 527-T-058", 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 the Minister of Economy and Finance, the Implementing Agency will be represented by the individual holding or acting in the office of the General Manager of the Agrarian Bank, and A.I.D. will be represented by the individual holding or acting in the office of the Director, USAID Mission to Peru. Such representatives shall have authority to designate additional representatives by written notice. In the event of any replacement or other designation of a representative hereunder, the 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, or the Implementing Agency 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 evidence 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. SUCCESSORS TO RIGHTS OF A.I.D. If by operation of any law of the United States, or by virtue of assignment, any corporate or other agency of the United States Government succeeds to the rights and obligations of A.I.D. under this Agreement, such agency shall be deemed to be A.I.D. for purposes of this Agreement.

Section 9.06. EFFECTIVE DATE OF AGREEMENT. This Agreement shall enter into effect on the day and year first above written.

Section 9.07. 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.

Section 9.08. CONTROLLING LANGUAGE. The Loan Agreement is executed in both the English and Spanish languages. In case of ambiguity or inconsistency between the English and Spanish versions, the English language version shall control.

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

The Republic of Peru:

[Signed]

FERNANDO REUS SALINAS

Director General
for Public Credit

Ministry of Economy and Finance

[Signed]

Engr. EDGARDO SEOANE CORRALES

President of the Board
Agrarian Bank of Peru

[Signed]

Engr. HARRY WATSON HIGGINSON

General Manager
Agrarian Bank of Peru

United States of America:

[Signed]

ROBERT W. DEAN

Ambassador

of the United States of America

[Signed]

DONALD R. FINBERG

Director

A.I.D. Mission to Peru

ANNEX I

A. PURPOSE OF THE PROJECT

The Project is designed to provide financial and technical assistance to up to 20 selected Agricultural Cooperative Federations (Centrals) in order to contribute to their consolidation and development and thereby improve their capacity to provide services to their member agricultural organizations. Such services may include assistance related to the production, marketing and industrialization of products, as well as training, technical and administrative assistance.

The specific purposes of the Project are:

1. to increase the capacity of selected Centrals to provide necessary services to their member organizations; and
2. to increase the financial and managerial viability of these Centrals.

B. PROJECT DESCRIPTION

The Project will cost a total of \$14.0 million with \$7.0 million to be provided by the A.I.D. Loan and \$7.0 million by the Government of Peru's contribution. The three major components of the Project are discussed below:

1. *Use of Loan Fund Allocated for Technical Assistance*

The \$100,000 allocated for technical assistance under the Loan will be made available for contracting specialized professional services which the Agrarian Bank and the Ministry of Agriculture are not able to provide. This technical assistance will be contracted for periods not to exceed one year and will be utilized to assist with the preparation of studies of Centrals, the selection of participating Centrals, the development of Terms of Reference for Development Plans, and other activities related to project planning, implementation and evaluation. The contracting of such services to be financed under the Loan will be approved by the Agrarian Bank and the Ministry of Agriculture pursuant to agreement(s) to be executed. Except as A.I.D. may otherwise agree in writing, the technical assistance contracts will be approved by A.I.D.

2. *Use of Loan Funds for Preparation of Central Development Plans*

\$1.0 million of Loan funds will be used for the preparation of Development Plans to be completed according to the Terms of Reference prepared by the Ministry of Agriculture in coordination with the Agrarian Bank and approved by A.I.D. Loan funds will be made available to finance independent professional services which may include the salaries and other costs required to prepare the Development Plans of either consulting firms or individuals. The contracting of such services to be financed under the Loan will be approved by the Agrarian Bank and the Ministry of Agriculture pursuant to agreement(s) to be executed. The contracts will be approved by A.I.D., except as A.I.D. may otherwise agree in writing. Loan funds will neither be used to finance Agrarian Bank and Ministry of Agriculture administrative costs nor to pay salaries of direct-hire or contractor personnel working in these agencies.

The financial resources required to prepare the Development Plans, as well as the \$100,000 of Loan funds allocated for technical assistance, will not be reimbursed by the Centrals and member organizations to be benefitted under the Project.

3. *Establishment of Central Development Fund*

The Central Development Fund to be established in the Agrarian Bank will total \$12.9 million including \$5.9 million from the A.I.D. Loan and \$7.0 million of Government of Peru financing. Loan funds provided to the Fund will finance investments and requirements identified in approved Development Plans for the selected Centrals. Eligible uses will include:

- a. Working capital sub-loans to finance both start-up costs and operating expenses for a time period not to exceed one year.
- b. Medium and long-term credit to finance investments in fixed assets that will enable Centrals to supply agro-inputs, and marketing, accounting, maintenance and other services to their member organizations.
- c. Medium and long-term credit to finance fixed asset investments for implementation of agro-industrial sub-projects.

The Agrarian Bank will provide crop production cycle credits (production and/or marketing sub-loans) to Centrals and member organizations with the \$7.0 million Government of Peru contribution to the Fund. Interest rates on sub-loans will be charged on outstanding balances and will be the same as those established by the Agrarian Bank for agricultural associative enterprises.