

No. 17252

**UNITED STATES OF AMERICA
and
PAKISTAN**

**Loan Agreement for the Fauji-Agrico Fertilizer Project
(with annex). Signed at Islamabad on 1 April 1977**

Authentic text: English.

Registered by the United States of America on 24 November 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
PAKISTAN**

**Accord de prêt relatif au projet d'usine d'engrais Fauji-
Agrico (avec annexe). Signé à Islamabad le 1^{er} avril
1977**

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 24 novembre 1978.

LOAN AGREEMENT¹ BETWEEN THE PRESIDENT OF PAKISTAN AND THE UNITED STATES OF AMERICA FOR THE FAUJI- AGRICO FERTILIZER PROJECT

Dated: April 1, 1977

A.I.D. Loan No. 391-T-164

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¹ Came into force on 1 April 1977 by signature.

LOAN AGREEMENT dated April 1, 1977, between the PRESIDENT OF PAKISTAN (“Borrower”) and the UNITED STATES OF AMERICA acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT (“A.I.D.”):

WHEREAS (A) the Borrower has requested A.I.D. to assist in the financing of the Project described in Section 1.02 by making the loan as hereinafter provided.

(B) Borrower will transfer the proceeds of the loan to Fauji Agrico Fertilizer Company Limited, a corporation organized and existing under the laws of Pakistan (“FAFCO”), pursuant to the terms and conditions of the Financing Agreement provided for herein.

(C) The capital shares, including preferred shares, if any, of FAFCO, of a par value of Rs. 10 each, have been or will be issued as follows:

- (1) 30.6% of such shares to the Fauji Foundation of Pakistan, a charitable foundation duly established under the laws of Pakistan (“Fauji”), in consideration of payments made or to be made aggregating the equivalent of up to \$25,000,000;
- (2) 30.6% of such shares to Agrico-Pakistan Enterprises, S.A., a corporation duly incorporated under the laws of the Republic of Panama (“Agrico-Pakistan”) which is a wholly owned subsidiary of Agrico Chemical Company, a corporation organized and existing under the laws of the State of Delaware, United States of America (“Agrico”), in consideration of payments made or to be made aggregating the equivalent of up to \$25,000,000;
- (3) 18% of such shares, as preferred shares, to a consortium of commercial banks in Pakistan, in consideration of payments made or to be made aggregating the equivalent of up to Rs. 150,000,000, and
- (4) 20.8% of such shares to Pakistan Industrial Development Corporation, National Investment Trust Limited and Investment Corporation of Pakistan in consideration of payments made or to be made aggregating the equivalent of up to Rs. 170,000,000 by the three aforementioned financial institutions.

(D) FAFCO has obtained or will obtain the following additional financing for the Project:

- (1) A loan in the amount of \$55,000,000 (the “IBRD Loan”) pursuant to an agreement to be entered into between the International Bank for Reconstruction and Development and FAFCO (the “IBRD Agreement”);
- (2) A loan in the amount of DM98,000,000 (the “KfW Loan”) pursuant to an agreement to be entered into between the Federal Republic of Germany, acting through its Kreditanstalt fuer Wiederaufbau, and the Borrower (the “KfW Agreement”);
- (3) A loan in the amount of Rs. 400,000,000 (the “Consortium Loan”) pursuant to an agreement to be entered into between the consortium referred to in Recital (C)(3) hereinabove, and FAFCO (the “Consortium Agreement”); and
- (4) A loan in an amount of Japanese ¥6,830,000,000 (including 15% as a down payment) (the “Suppliers Credit”) pursuant to an Agreement to be entered into between the Toyo Engineering Corporation and FAFCO (“Suppliers Agreement”).

(E) Fauji and Agrico-Pakistan will enter into an agreement governing the relationship between Fauji and Agrico-Pakistan as shareholders of FAFCO (the "Shareholders Agreement").

(F) FAFCO and Agrico will enter into an agreement for the provision by Agrico to FAFCO of technical and training assistance (the "Technical Assistance Agreement").

(G) FAFCO and Agrico will enter into an agreement for the provision by Agrico to FAFCO of certain proprietary technical information and know-how (the "Know-How Agreement").

(H) Borrower and FAFCO will enter into an agreement setting forth the terms and conditions under which FAFCO will sell its products (the "Marketing and Pricing Principles Agreement").

(I) Fauji, Agrico and Agrico-Pakistan will enter into an agreement by which Fauji, Agrico and Agrico-Pakistan agree to participate in the construction, development and operation of the Project (the "Participation Agreement").

(J) A.I.D., FAFCO, Fauji, Agrico and Agrico-Pakistan have entered into an agreement of even date herewith (the "Project Agreement") under which FAFCO, Fauji, Agrico and Agrico-Pakistan will undertake certain obligations to A.I.D. with respect to the project.

(K) FAFCO shall acquire all such land and rights in respect of land as shall be required for carrying out the project.

(L) A.I.D., on the basis of, *inter alia*, the foregoing, has agreed to make the loan to the Borrower upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties hereto hereby agree as follows:

Article I. THE LOAN

Section 1.01. 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, an amount not to exceed forty million United States dollars (\$40,000,000) ("the Loan") to assist the Borrower in carrying out the Project referred to in Section 1.02 ("the Project"). The Loan shall be used exclusively to finance the foreign exchange costs of goods and services required for the Project. The aggregate amount of disbursements under the Loan is hereinafter referred to as "Principal". The goods and services authorized to be financed hereunder are hereinafter referred to as "Eligible Items". A.I.D. may decline to finance any Eligible Items when, in its judgement, said financing would be inconsistent with the purpose of the Loan or in violation of the legislation or regulations governing A.I.D.

Section 1.02. THE PROJECT. The Project shall be the construction and operation of a urea fertilizer plant and all appropriate ancillary facilities at Goth Machhi in the Punjab Province using natural gas from the Mari fields as fuel and feedstock, together with the provision of management services and training, all as described in more detail in the Project Description attached hereto as Annex I. Said Annex I is a part of this Agreement and may, within the terms of this Agreement, be modified in writing by the parties hereto.

Article II. DEFINITIONS

Section 2.01. DEFINITIONS. Wherever used in this Agreement the following terms have the following meanings:

(a) “Esso Eastern” means Esso Eastern Inc., a corporation organized and existing under the laws of the State of Delaware, United States of America and carrying on business in Pakistan.

(b) “Financing Agreement” means the agreement between the Borrower and FAFCO under which the Borrower will transfer the proceeds of the Loan to FAFCO to carry out the Project.

(c) “Foreign Currency” means any currency other than Pakistani rupees.

(d) “Gas Purchase Agreement” means the agreement between FAFCO and Esso Eastern to provide natural gas for the Project from the Mari Gas Field.

Article III. LOAN TERMS

Section 3.01. INTEREST. The Borrower shall pay to A.I.D. interest which shall accrue at the rate of two percent (2%) per annum for ten (10) 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 8.03) and shall be payable semi-annually. 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 3.02. REPAYMENT. The Borrower shall repay the Principal to A.I.D. within forty (40) years from the date of the first disbursement hereunder in sixty-one (61) approximately equal semi-annual installments of Principal and interest. The first installment of Principal shall be payable nine and one-half (9 1/2) years after the date on which the first interest payment is due in accordance with Section 3.01. A.I.D. shall provide the Borrower with an amortization schedule in accordance with this Section after the final disbursement under the Loan.

Section 3.03. 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 Controller, Office of Financial Management, Agency for International Development, Washington, D.C. 20523, U.S.A., and shall be deemed made when received by the Office of Financial Management.

Section 3.04. 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 for their maturity.

Section 3.05. 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 improvement in the internal and external economic and financial position and prospects of the country of the Borrower.

Article IV. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 4.01. INITIAL CONDITIONS PRECEDENT TO DISBURSEMENT. Prior to initial disbursement or to the issuance of the first letter of commitment under the Loan, the Borrower or FAFCO, as the case may be, 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 Ministry 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 enforceable in accordance with its terms.
- (b) A statement of the names of the persons holding or acting in the office of the Borrower specified in Section 10.02 and a specimen signature of each such person specified in such statement.
- (c) Evidence that (i) FAFCO is a public limited liability company duly organized and existing under the laws of Pakistan with an authorized share capital, including preferred shares, in an amount equivalent to \$81,600,000; (ii) FAFCO has full power under its Memorandum and Articles of Association to own properties, carry on business and generally undertake the Project; (iii) individuals with demonstrated management capability and appropriate experience have been appointed to, and are serving in, the positions of Managing Director and Deputy Managing Director; and (iv) the Participation Agreement shall have been ratified by and is legally binding upon FAFCO.
- (d) Certified copies of the following agreements:

(1) IBRD Agreement	(7) Technical Assistance Agreement
(2) Consortium Agreement	(8) Marketing and Pricing Principles Agreement
(3) Suppliers Agreement	(9) Know-How Agreement
(4) Gas Purchase Agreement	(10) Project Agreement
(5) Participation Agreement	(11) Financing Agreement,
(6) Shareholder's Agreement	

and evidence satisfactory to A.I.D. that such agreements are valid and binding obligations of the respective parties thereto.

- (e) The KfW Agreement shall have been duly signed by the parties thereto.
- (f) Evidence that FAFCO shall have acquired or will acquire all lands and properties and all rights, easements, privileges and approvals pertaining to such lands and properties as shall be necessary or appropriate to enable FAFCO to carry out the Project.
- (g) Evidence that adequate water supplies will be available to carry out the Project.
- (h) Executed contracts for engineering, procurement and construction services including implementation schedules and contracts for such other services as A.I.D. may specify for the Project with firms satisfactory to A.I.D.
- (i) Evidence that the conditions to effectiveness in the IBRD Agreement have been met.

- (j) Evidence that environmental and pollution controls designed to meet appropriate environmental protection standards will be installed in the fertilizer plant as a part of the Project.

Section 4.02. TERMINAL DATES FOR MEETING CONDITIONS PRECEDENT TO DISBURSEMENT. If all of the conditions specified in Section 4.01 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 to in writing, A.I.D., at its option, may terminate this Agreement by giving written notice to the Borrower. Upon giving of such notice, this Agreement and all obligations of the parties thereunder shall terminate.

Section 4.03. 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 specified in Section 4.01 have been met.

Article V. COVENANTS

Section 5.01. GENERAL COVENANTS. The Borrower, in consideration of this Loan, hereby covenants and warrants that:

- (a) Borrower shall enable and assist FAFCO to carry out the Project with due diligence and efficiency, and in conformity with appropriate administrative, financial, engineering, industrial and marketing practices.
- (b) Borrower covenants that it will not take, or cause or permit any of its political subdivisions or any of its agencies or any agency of any such political subdivisions to take, any action which would prevent or interfere with the performance by FAFCO, Fauji, Agrico and Agrico-Pakistan, as the case may be, of their obligations contained in the Project Agreement, the Financing Agreement, the Marketing and Pricing Principles Agreement, the Know-How Agreement, the Technical Assistance Agreement, the Participation Agreement and the Gas Purchase Agreement and will take or cause to be taken all reasonable action necessary or appropriate to enable FAFCO and Fauji, Agrico and Agrico-Pakistan, as the case may be, to perform such obligations.
- (c) Subject to the provisions of the Agreement and the provisions of agreements approved by A.I.D. hereunder, Borrower will permit FAFCO to manage its activities, business and affairs pursuant to the authority and terms of its Memorandum of Association and Articles of Association.
- (d) Borrower and A.I.D. shall cooperate fully to assure that the Project will be accomplished. To this end, the Borrower and A.I.D., with FAFCO participation when appropriate, 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 of the Borrower of its obligations under this Agreement, the performance of FAFCO and contractors and suppliers engaged in the Project, and other matters relating to the Project.
- (e) Borrower affirms that no payments have been or will be received by any official of the Borrower, in connection with the procurement of goods and services financed under the Loan, except fees, taxes or similar payments legally established in Pakistan.

(f) Borrower has disclosed to A.I.D. all circumstances which may materially affect the Project or the discharge of the Borrower's obligations under this Agreement and will promptly 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 the Borrower's obligations under this Agreement.

Section 5.02. TERMS OF RELENDING. (a) The Borrower shall transfer to FAFCO the proceeds of the Loan, pursuant to the terms and conditions of a Financing Agreement to be entered into satisfactory to A.I.D.

(b) The Borrower shall cause FAFCO to apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

Section 5.03. FINANCING AGREEMENT. (a) The Borrower shall exercise its rights under the Financing Agreement in such a manner as to protect the interests of Borrower and A.I.D. and to accomplish the purpose of the Loan.

(b) No right or obligations under the Financing Agreement shall be assigned, amended, abrogated or waived by the Borrower without the prior concurrence of A.I.D.

(c) Borrower is firmly and unconditionally obligated to repay the Loan in accordance with the terms of the Loan Agreement irrespective of FAFCO's rate of repayment of the onlent Loan proceeds under the Financing Agreement.

Section 5.04. FUNDS AND OTHER RESOURCES TO BE PROVIDED BY BORROWER. The Borrower herein agrees to provide promptly as needed all funds, including both local and foreign currencies, in addition to the Loan, and all other resources required for the punctual and effective carrying out of the Project. The Borrower specifically undertakes (a) in respect of the costs of the Project estimated to amount to the equivalent of \$272,000,000 whenever there is reasonable cause to believe that the funds available to FAFCO will be inadequate to meet the estimated expenditures required for the carrying out of the Project, to make arrangements, satisfactory to A.I.D., promptly to provide FAFCO or cause FAFCO to be provided with such funds as are needed to meet such expenditures, and (b) in respect of the costs of the Project above the equivalent of \$272,000,000 to provide or cause to be provided to FAFCO on terms and conditions satisfactory to A.I.D., with all funds required for carrying out the Project.

Section 5.05. FERTILIZER MARKETING. In order to assure the success of the Project, Borrower shall ensure FAFCO is able to market throughout Pakistan imported and locally produced urea, phosphate and compound fertilizers, both prior to FAFCO's commencement of production and subsequent thereto. FAFCO shall be allowed to market its own urea fertilizer production throughout Pakistan. Borrower shall provide or cause to be provided to FAFCO sufficient local or imported fertilizer to support a satisfactory fertilizer seeding program (prior to FAFCO's commencement of production) formulated in consultation with FAFCO and A.I.D.

Section 5.06. TRANSPORTATION. Borrower shall formulate and implement a satisfactory coordinated fertilizer transportation program. Moreover, Borrower shall take necessary action to assure that adequate locomotives and railway wagons are made available on a timely basis to FAFCO for its operations.

Section 5.07. 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 be free from, any taxation or fees imposed under the laws in effect in Pakistan. As, and to the extent that (a) any contractor, including any consulting firm, financed hereunder, any personnel of such contractor 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 Pakistan, the Borrower shall pay or reimburse the same with funds other than those provided under the Loan.

Section 5.08. INVESTMENT GUARANTY PROJECT APPROVAL. Construction work to be financed under this Agreement is agreed to be a project approved by Pakistan pursuant to the agreement between it and the United States of America on the subject of investment guaranties, and no further approval by Pakistan will be required to permit the United States to issue investment guaranties under that agreement covering a contractor's investment in the project.

Section 5.09. INCENTIVES. Borrower shall review with A.I.D., in consultation with the IBRD, the financial incentives allowed to fertilizer companies to cover their marketing and distribution costs, and promptly thereafter implement such adequate financial incentives as are determined by the Borrower in consultation with A.I.D. and IBRD.

Section 5.10. GAS SUPPLY. (a) Borrower shall take or cause to be taken all action necessary, including the provision of investment funds, to ensure the timely availability for the Project of the quantities of gas specified in the Gas Purchase Agreement.

(b) For that purpose, the Borrower shall not sanction new projects based on Mari gas, or sanction expansion of existing projects based on Mari gas, namely, Esso Fertilizer, Pak-Saudi Fertilizer and Fauji-Agrico Fertilizer, without determining that the sanction is supported by proven reserves of gas surplus to the requirements of the said existing projects.

Section 5.11. DELIVERY OF GOODS. The Borrower shall use its best efforts to facilitate the entry of goods for the Project into Pakistan and their delivery for use in the Project.

Article VI. RECORDS, REPORTS AND INSPECTIONS

Section 6.01. MAINTENANCE OF RECORDS. The Borrower shall cause to be maintained, in accordance with sound accounting principles and practices consistently applied, books and records relating to the Loan. Such books and records shall, except as A.I.D. may otherwise agree in writing, be maintained for three (3) years after the date of the final disbursement under the Loan.

Section 6.02. REPORTS. The Borrower shall furnish or cause to be furnished to A.I.D. all such information as A.I.D. shall reasonably request concerning (i) the Loan (ii) the policies of Borrower concerning fertilizer supply, credit, marketing and use within Pakistan; and (iii) other matters relating to the purposes of the Project.

Section 6.03. INSPECTIONS. The authorized representatives of A.I.D. shall have the right at all reasonable times to observe the operation of the Project

and inspect the utilization of all goods and services financed hereunder, and books, records, and other documents relating to the Loan and the Financing Agreement. 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 related to the Project.

Article VII. PROCUREMENT

Section 7.01. PROCUREMENT FROM THE UNITED STATES AND CODE 941 COUNTRIES. Except as A.I.D. may otherwise agree in writing, disbursements made pursuant to Sections 8.01 and 8.02 shall be used exclusively to finance the procurement for the Project of goods and services, and marine insurance, having both their source and origin in the United States of America and other countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time of such procurement.

Section 7.02. ELIGIBILITY DATES. 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 March 1, 1977.

Section 7.03. APPROVAL OF CONTRACTS AND OTHER DOCUMENTS. Except as A.I.D. may otherwise agree in writing, all bid documents and documents related to the solicitation of proposals related to Eligible Items shall be approved by A.I.D. in writing prior to their issuance. Except as A.I.D. may otherwise specify in Implementation Letters, all contracts or amendments thereto shall be approved by A.I.D. in writing prior to their execution.

Section 7.04. SHIPPING AND INSURANCE. (a) Goods financed under the Loan shall be transported to Pakistan on flag carriers of any country included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of shipment, provided,

- (i) At least fifty percent (50%) of the gross tonnage of all commodities (computed separately for dry bulk carriers, dry cargo liners and tankers) financed hereunder which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels.
- (ii) Additionally, at least fifty percent (50%) of the gross freight revenue generated by all shipments financed hereunder and transported to Pakistan on dry cargo liners shall be paid to or for the benefit of privately owned United States-flag commercial vessels.
- (iii) Compliance with the requirements of (i) and (ii) above must be achieved with respect to cargo transported from U.S. ports and also to cargo transported from non-U.S. ports, computed separately.
- (iv) Within ninety (90) days following the end of each calendar quarter, or such other period as A.I.D. may specify in writing, the Borrower shall furnish A.I.D. with a statement, in form and substance satisfactory to A.I.D., reporting on compliance with the requirements of this Section.
- (v) No such goods may be transported on any ocean vessel (or aircraft) which A.I.D., in a notice to the Borrower, has designated as ineligible to carry A.I.D.-financed goods or which has been chartered for the carriage of A.I.D.-financed goods unless such charter has been approved by A.I.D.

(b) If, in connection with the placement of marine insurance on shipments to be financed hereunder the Borrower, 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, goods procured from the United States and 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 a marine insurance business in any state of the United States of America.

(c) 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 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. 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 both their source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book unless A.I.D. shall otherwise agree in writing and shall be otherwise subject to the provisions of this Agreement.

Section 7.05. UTILIZATION OF GOODS AND SERVICES. (a) Eligible Items shall be used exclusively for the Project, except as A.I.D. may otherwise agree in writing.

(b) Except as A.I.D. may otherwise agree in writing, no Eligible Items 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 7.06. REASONABLE PRICE. No more than reasonable prices shall be paid for any Eligible Items. 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 to be issued pursuant to Section 10.03 ("Implementation Letters").

Section 7.07. NOTIFICATION TO POTENTIAL SUPPLIERS. In order that all United States firms shall have the opportunity to participate in furnishing Eligible Items, the Borrower shall furnish to A.I.D. appropriate information with regard thereto at such time as A.I.D. may request in Implementation Letters.

Section 7.08. INFORMATION AND MARKING. The Borrower will cooperate with A.I.D. in its efforts to disseminate information concerning the Project and shall comply with such reasonable instructions with respect to the marking of Eligible Items as A.I.D. may issue from time to time.

Article VIII. DISBURSEMENTS

Section 8.01. 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 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 8.02. OTHER FORMS OF DISBURSEMENT. Disbursement of the Loan may also be made through such other means as the Borrower and A.I.D. may agree in writing.

Section 8.03. DATE OF DISBURSEMENT. Disbursement by A.I.D. shall be deemed to occur in the case of disbursements pursuant to Sections 8.01 and 8.02 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 8.04. PROJECT ASSISTANCE COMPLETION DATE. (a) The "Project Assistance Completion Date" (PACD), which is March 31, 1982, or such other date as the Borrower and A.I.D. may agree to in writing, is the date by which the Borrower and A.I.D. estimate that all services financed under the Loan will have been performed and all goods financed under the Loan will have been furnished for the Project as contemplated in this Agreement.

(b) Except as A.I.D. may otherwise agree in writing, A.I.D. will not issue or approve documentation which would authorize disbursement of the Loan for services performed subsequent to the PACD or for goods furnished for the Project, as contemplated in this Agreement, subsequent to the PACD.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letter, are to be received by A.I.D. or any bank described in Section 8.01 no later than nine (9) months following the PACD, or such other period as A.I.D. agrees to in writing. After such period, A.I.D., giving notice in writing to the Borrower, may at any time or times reduce the amount of the Loan by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Implementation Letters, were not received before the expiration of said period.

Article IX. CANCELLATION, SUSPENSION AND ACCELERATION

Section 9.01. 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 9.02. EVENTS OF DEFAULT; ACCELERATION. If any one or more of the following events ("Events of Default") shall occur:

- (a) The Borrower shall fail to pay when due any interest or installment of Principal required under this Agreement;
- (b) The Borrower shall fail to comply with any other provision of this Agreement;
- (c) The Borrower shall fail 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;
- (d) A material default shall occur in the performance by any of the parties thereto of the KfW Agreement, the IBRD Agreement, the Participation Agreement, the Financing Agreement or the Project Agreement;
 - (e) FAFCO's Memorandum of Association and Articles of Association, or any provision thereof, shall be amended without prior consent of A.I.D. in any manner which in the reasonable opinion of A.I.D. would have a material adverse effect upon the carrying out of the Project in accordance with the Project Agreement;
 - (f) Without prior consent of A.I.D., the Borrower or any other authority having jurisdiction shall take any action for the dissolution or disestablishment of FAFCO or for the suspension of its operations;
 - (g) FAFCO shall be unable to pay its debts as they mature, or any action or proceeding shall be taken by FAFCO or others whereby any of its property or assets shall or may be distributed among or administered for the benefit of its creditors; or
 - (h) Any situation shall arise which interferes with the supply of gas required for the Project in accordance with the terms of the Gas Purchase Agreement; then A.I.D., in addition to the remedies provided hereunder may, at its option, give the Borrower notice of the existence of the default, and, unless the Event of Default is cured within sixty (60) days from the date of such notice:
 - (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 9.03. 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 purposes of the Loan will be attained or that the Borrower will be able to perform its obligations under this Agreement; or
- (c) Any disbursement would be in violation of the legislation governing A.I.D.; then A.I.D. in addition to the remedies provided elsewhere herein 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 under the Loan with respect to such transferred goods shall be deducted from Principal.

Section 9.04. CANCELLATION BY A.I.D. Following any suspension of disbursements pursuant to Section 9.03, 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 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 9.05. 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 9.06. 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 sixty (60) days after receipt of a request therefor. The rights to require such a refund of a disbursement will continue notwithstanding any other provision of this Agreement, for three years from the date of the last disbursement under the Agreement.

(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 9.07. 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 such rights, powers or remedies.

Article X. MISCELLANEOUS

Section 10.01. COMMUNICATIONS. Any notice, requests, 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, Pakistan

Cable Address: ECONOMIC
Islamabad

To A.I.D.:

Mail Address: United States Agency for International Development
Islamabad, Pakistan

Cable Address: USAIDPAK
Islamabad

To FAFCO: Fauji-Agrico Fertilizer Company Limited
Harley Street
Rawalpindi, Pakistan

Telex: RP 821

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 10.02. REPRESENTATIVES. For all purposes relative to this Agreement, the Borrower will be represented by the individual holding or acting in the office of the Secretary, Joint Secretary or Deputy Secretary, Economic Affairs Division, and A.I.D. will be represented by the individual holding or acting in the office of the Director, U.S.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 on any instrument as conclusive evidence that any action effected by such instrument is duly authorized.

Section 10.03. IMPLEMENTATION LETTERS. A.I.D. may from time to time issue Implementation Letters that will prescribe the procedures applicable hereunder in connection with the implementation of this Agreement.

Section 10.04. 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

ANNEX I

DESCRIPTION OF THE PROJECT

The Project consists of the design, construction, commissioning and initial operation of a new ammonia/urea fertilizer plant (the "Plant") at Goth Machhi, Punjab Province, about 375 miles from Karachi.

The Project includes the following elements:

1. Preparation of the site for the Plant.
2. Designing, procurement of equipment for, and constructing:
 - (a) An intermediate ammonia unit with a designed production capacity of approximately 1,000 metric tons per day;
 - (b) A urea unit with a designed production capacity of 1,725 metric tons of prilled urea per day; and
 - (c) A 33 mile pipeline to transport natural gas from the nearby Mari gas field to the project site.
3. Provision of all necessary ancillary facilities, namely a urea bagging plant, storage and loading facilities, water pipeline and water purification system, effluent treating units, a power plant, maintenance and off-site facilities and a housing colony.

The Project is expected to be completed by June 30, 1980.
