

No. 19877

**UNITED STATES OF AMERICA
and
TUNISIA**

**Project Loan and Grant Agreement for rural community
health (with annexes). Signed at Tunis on 29 December
1977**

Authentic texts: English and French.

Registered by the United States of America on 10 June 1981.

**ÉTATS-UNIS D'AMÉRIQUE
et
TUNISIE**

**Accord de prêt et de subvention pour un projet de santé
rurale (avec annexes). Signé à Tunis le 29 décembre
1977**

Textes authentiques : anglais et français.

Enregistré par les États-Unis d'Amérique le 10 juin 1981.

PROJECT LOAN AND GRANT AGREEMENT¹ BETWEEN THE REPUBLIC OF TUNISIA AND THE UNITED STATES OF AMERICA FOR RURAL COMMUNITY HEALTH

Dated: December 29, 1977

A.I.D. Loan Number 664-U-053
Project Number 664-0296

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¹ Came into force on 29 December 1977 by signature.

LOAN AND GRANT AGREEMENT dated December 29, 1977 between the REPUBLIC OF TUNISIA ("Cooperating Country") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

Article 1. THE AGREEMENT

The purpose of this Agreement is to set out the understandings of the parties named above ("Parties") with respect to the undertaking by the Cooperating Country of the Project described below, and the financing thereof by the Parties.

Article 2. THE PROJECT

Section 2.1. DEFINITION OF PROJECT. The Project, which is further described in Annex 1, will consist of redefining the tasks of the non-physician personnel and retraining of front line health workers, integrating preventive and curative primary health services including family planning, expanding outreach components of the primary care system, constructing and renovating facilities and providing equipment for primary care, all in the framework of the Tunisian regulations. Annex 1, attached, contains the detailed Project description cited in this Section 2.1 and identifies those elements of the Project for which Grant financing will be employed, and those for which Loan financing will be employed. Within the limits of the above definition of the Project, elements of the description contained in Annex 1 may be changed by written agreement of the authorized representatives of the Parties named in Section 9.2 without formal amendment of this Agreement.

Section 2.2. INCREMENTAL NATURE OF THE GRANT. (a) A.I.D.'s grant contribution to the Project will be provided in increments, the initial one being made available in accordance with Section 3.1 of this Agreement. Subsequent increments will be subject to availability of grant funds to A.I.D. for this purpose, and to the mutual agreement of the Parties, at the time of a subsequent increment, to proceed with the project.

(b) Within the overall Project Assistance Completion Date stated in this Agreement, A.I.D., based upon consultation with the Grantee, may specify in Project Implementation Letters appropriate time periods for the utilization of funds granted by A.I.D. under an individual increment of assistance.

Article 3. FINANCING

Section 3.1. THE GRANT; THE LOAN. To assist the Cooperating Country to meet the costs of carrying out the Project, A.I.D. pursuant to the Foreign Assistance Act of 1961, as amended, agrees to allot one million United States (\$U.S.) Dollars (\$1,000,000) in grant funds for technical assistance over the life of the project, of which six hundred eighty thousand dollars (\$680,000) will be released in Fiscal year 1978. A.I.D. also agrees to lend the Cooperating Country under the terms of this agreement not to exceed three million U.S. Dollars (\$3,000,000) ("Loan"). The aggregate amount of disbursements under the Loan is referred to as "Principal". The Loan and the Grant together are referred to as the "Assistance".

The Assistance may be used to finance foreign exchange costs, as defined in Section 7.1, and local currency costs, as defined in Section 7.2 of goods and services required for the Project.

Section 3.2. COOPERATING COUNTRY RESOURCES FOR THE PROJECT.

(a) The Cooperating Country agrees to provide or cause to be provided for the Project all funds, in addition to the Assistance, and all other resources required to carry out the Project effectively and in a timely manner.

(b) The resources provided by the Cooperating Country for the Project will be approximately the equivalent of U.S. \$1,615,850 including costs borne on an "in-kind" basis, but not less than 25% of the total cost of the Project.

Section 3.3. PROJECT ASSISTANCE COMPLETION DATE. (a) The "Project Assistance Completion Date" (PACD), which is September 30, 1980, or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all services financed under the Assistance will have been performed and all goods financed under the Assistance 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 Assistance 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 Project Implementation Letters, are to be received by A.I.D. or any bank described in Section 8.1 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. by giving notice in writing to the Cooperating Country, may at any time or times reduce the amount of the Assistance by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, were not received before the expiration of said period.

Article 4. LOAN TERMS

Section 4.1. INTEREST. The Cooperating Country will pay to A.I.D. interest which will accrue as the rate of two percent (2%) per annum for ten years following the date of the first disbursement of the Loan 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 will accrue from the date (as defined in Section 8.5) of each respective disbursement, and will be computed on the basis of a 365-day year. Interest will be payable no later than six (6) months after the first disbursement of the Loan hereunder, on a date to be specified by A.I.D.

Section 4.2. REPAYMENT. The Cooperating Country will repay the Principal to A.I.D. within thirty (30) years from the date of the first disbursement of the Loan in forty-one (41) approximately equal semi-annual installments of Principal and interest. The first installment of Principal will 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 4.1. A.I.D. will provide the Cooperating Country with an amortization schedule in accordance with this Section after the final disbursement under the Loan.

Section 4.3. APPLICATION, CURRENCY, AND PLACE OF PAYMENT. All payments of interest and Principal hereunder will be made in U.S. Dollars and will 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, payments will be made to the Controller, Office of Financial Management, Agency for International Development, Washington, D.C. 20523, U.S.A., and will be deemed made when received by the Office of Financial Management.

Section 4.4. PREPAYMENT. Upon payment of all interest and any refunds then due, the Cooperating Country may prepay, without penalty, all or any part of the Principal. Unless A.I.D. otherwise agrees in writing, any such prepayment will be applied to the installments of Principal in the inverse order of their maturity.

Section 4.5. RENEGOTIATION OF TERMS. (a) The Cooperating Country and A.I.D. agree to negotiate, at such time or times as either may request, an acceleration of the repayment of the Loan in the event that there is any significant and continuing improvement in the internal and external economic and financial position and prospects of Tunisia, which enable the Cooperating Country to repay the Loan on a shorter schedule.

(b) Any request by either Party to the other to so negotiate will be made pursuant to Section 9.1, and will give the name and address of the person or persons who will represent the requesting Party in such negotiations.

(c) Within thirty (30) days after delivery of a request to negotiate, the requested Party will communicate to the other, pursuant to Section 9.1, the name and address of the person or persons who will represent the requested Party in such negotiations.

(d) The representatives of the Parties will meet to carry on negotiations no later than thirty (30) days after delivery of the requested Party's communication under Sub-section (c). The negotiations will take place at a location mutually agreed upon by the representatives of the Parties, provided that, in the absence of mutual agreement, the negotiations will take place at the office of the Cooperating Country's Ministry of Foreign Affairs in Tunisia.

Section 4.6. TERMINATION ON FULL PAYMENT. Upon payment in full of the Principal and any accrued interest, this Agreement and all obligations of the Cooperating Country and A.I.D. relating to the Loan provisions of this Agreement will cease. However, with respect to any remaining obligations arising out of the expenditure of Grant funds, this agreement will remain in full force and effect.

Article 5. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 5.1. FIRST DISBURSEMENT. Prior to the first disbursement of the assistance the Cooperating Country will, 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 counsel acceptable to A.I.D. that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Cooperating Country and that it constitutes a valid and legally binding obligation of the Cooperating Country in accordance with all of its terms;
- (b) A statement of the name of the person holding or acting in the Office of the Cooperating Country specified on Section 9.2 and of any additional representatives, together with a specimen signature of each person specified in such statement;

- (c) A request from the Cooperating Country for A.I.D. to directly procure consulting services of an architect to advise on the health service aspects of the buildings being financed by the Loan.

Section 5.2. ADDITIONAL DISBURSEMENTS. Prior to the disbursement of assistance for other than the consultant services contemplated in Section 5.1 the Cooperating Country will, 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) A request from the Cooperating Country for A.I.D. to directly procure the health services technical assistance;
- (b) A set of criteria by which the health centers will be deemed operational;
- (c) A preliminary training plan; and
- (d) A preliminary evaluation plan.

Section 5.3. DISBURSEMENTS FOR CONSTRUCTION AND RENOVATION. Prior to the disbursement of funds for construction or renovation, the Cooperating Country will, 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) Final designs, specifications, and cost estimates for the construction and renovation of health centers;
- (b) A final training plan;
- (c) A final evaluation plan;
- (d) A list of construction and renovation sites and evidence that clear title to each has been obtained, the reimbursement for each site being considered in relation with the title for such site;
- (e) A list of the equipment to be provided under the project, together with a procurement schedule and a delivery schedule; and
- (f) A work plan for the construction and renovations.

Section 5.4. NOTIFICATION. When A.I.D. has determined that the conditions precedent specified in Sections 5.1, 5.2 and 5.3 have been met, it will promptly notify the Cooperating Country.

Section 5.5. TERMINAL DATES for CONDITIONS PRECEDENT. (a) If all of the conditions specified in Section 5.1 have not been met within 90 days from the date of this Agreement or such later date as A.I.D. may agree to in writing, A.I.D. may, at its option, terminate this Agreement by written notice to the Cooperating Country.

(b) If all of the conditions specified in Section 5.2 have not been met within 180 days from the date of this Agreement, or if all of the conditions specified in Section 5.3 have not been met within 300 days from the date of this Agreement, or such later dates as A.I.D. may agree to in writing, A.I.D., at its option, may cancel the then undisbursed balance of the Assistance, to the extent not irrevocably committed to third parties, and may terminate this Agreement by written notice to the Cooperating Country. In the event of such termination the Cooperating Country will repay immediately the Principal then outstanding and any accrued interest; or receipt of such payments in full and payments for irrevocably committed amounts, this Agreement and all obligations of the Parties hereunder will terminate, except with respect to any obligations arising out of the expenditure of Grant funds.

Article 6. SPECIAL CONVENANTS

Section 6.1. PROJECT EVALUATION. The Parties agree to establish an evaluation program as part of the Project. Except as the Parties otherwise agree in writing, the program will include, during the implementation of the Project and at one or more points thereafter: (a) evaluation of progress toward attainment of the objectives of the Project; (b) identification and evaluation of problem areas or constraints which may inhibit such attainment; (c) assesment of how such information may be used to help overcome such problems; and (d) evaluation, to the degree feasible, of the overall development impact of the Project.

Section 6.2. COUNTERPARTS. Prior to the arrival in Tunisia of the technical assistance team, unless A.I.D. shall otherwise agree in writing, the Cooperating Country shall furnish, in form and substance satisfactory to A.I.D., evidence that the Government of Tunisia has designated appropriate counterparts in both Siliana and Sidi Bou Zid provinces and in Tunis.

Section 6.3. FACILITIES. The Cooperating Country agrees to assist USAID/Tunisia in obtaining such housing, offices and other facilities as are needed in the project area to support the work of the technical assistance team.

Section 6.4. TECHNICAL ASSISTANCE. The Cooperating Country agrees to collaborate with AID in the selection of a qualified U.S. technical assistance contractor to implement a program of work along the general lines described in "Design Study II: Integrated Rural Health Services in Siliana and Sidi Bou Zid Provinces, Tunisia", July 28, 1977, Family Health Care, Inc., Washington, D.C.

Article 7. PROCUREMENT SOURCE

Section 7.1. FOREIGN EXCHANGE COSTS. Disbursements pursuant to Section 8.1 will be used exclusively to finance the costs of goods and services required for the Project having their source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods and services or in Tunisia ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Standard Provisions Annex, Section C.1 (b) with respect to marine insurance.

Section 7.2. LOCAL CURRENCY COSTS. Disbursements pursuant to Section 8.2 will be used exclusively to finance the costs of goods and services required for the Project having their source and, except as A.I.D. may otherwise agree in writing, their origin in Tunisia ("Local Currency Costs").

Article 8. DISBURSEMENTS

Section 8.1. DISBURSEMENT FOR FOREIGN EXCHANGE COSTS. (a) After satisfaction of conditions precedent, the Cooperating Country may obtain disbursements of funds under the Loan or the Grant for the Foreign Exchange Costs of goods or services required for the Project in accordance with the terms of the Agreement, by such of the following methods as may be mutually agreed upon:

- (1) By submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or, (B) requests for A.I.D. to procure commodities or services in the Cooperating Country's behalf for the Project;
- or

- (2) By requesting A.I.D. to issue Letters of Commitment for specified amounts (A) to one or more U.S. 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, under Letters of Credit or otherwise, for such goods or services, or (B) directly to one or more contractors or suppliers, committing A.I.D. to pay such contractors or suppliers for such goods or services.

(b) Banking charges incurred by the Cooperating Country in connection with Letters of Commitment and Letters of Credit will be financed under the Assistance unless the Cooperating Country instructs A.I.D. to the contrary. Such other charges as the Parties may agree to may also be financed under the Assistance.

Section 8.2. DISBURSEMENT FOR LOCAL CURRENCY COSTS. (a) After satisfaction of conditions precedent, the Cooperating Country may obtain disbursement of funds under the Loan for Local Currency Costs required for the Project in accordance with the terms of this Agreement, by submitting to A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, requests to finance such costs.

(b) The schedule of reimbursements is as follows:

30% of the total amount allocated for construction and renovation as an advance, upon the satisfaction of the Conditions Precedent listed in Section 5.3 of this Agreement;

40% of the agreed amount for each center when renovation or construction is completed;

30% of the agreed amount for each center when it is operational.

Section 8.3. OTHER FORMS OF DISBURSEMENT. Disbursements of the Loan or the Grant may also be made through such other means as the Parties may agree to in writing.

Section 8.4. RATE OF EXCHANGE. Funds provided under the Loan or the Grant by A.I.D. or any public or private agency for purposes of carrying out obligations of A.I.D. under Section 8.2 will be calculated at the highest rate of exchange which, at the time disbursement is made, is not unlawful in Tunisia.

Section 8.5. DATE OF DISBURSEMENT. Disbursements of the Assistance by A.I.D. will be deemed to occur on the date on which A.I.D. makes a disbursement to the Cooperating Country or its designee, or to a bank, contractor or supplier pursuant to a Letter of Commitment, contract, or purchase order.

Article 9. MISCELLANEOUS

Section 9.1. COMMUNICATIONS. Any notice, request, document or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram or cable, and will be deemed duly given or sent when delivered to such Party at the following address.

To the Cooperating Country:

Ministère des Affaires Etrangères
Direction de la Coopération Internationale
Avenue Mohamed V
Tunis, Tunisia

To A.I.D.:

Agency for International Development
c/o American Embassy
144 Avenue de la Liberté
Tunis, Tunisia

Alternate address for cables:
Director, USAID
Amembassy, Tunis

All such communications will be in English or French. Other addresses may be substituted for the above upon the giving of notice.

Section 9.2. REPRESENTATIVES. For all purposes relevant to this Agreement, the Cooperating Country will be represented by the individual holding or acting in the Office of Minister of Foreign Affairs and A.I.D. will be represented by the individual holding or acting in the office of Director, USAID to Tunisia, each of whom, by written notice, may designate additional representatives for all purposes other than exercising the power under Section 2.1 to revise elements of the detailed description in Annex 1. The names of the representatives of the Cooperating Country, with specimen signatures, will be provided to A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

Section 9.3. STANDARD PROVISIONS ANNEX. A “Combined Loan and Grant Standard Provisions Annex” (Annex 2) is attached to and forms part of this agreement.

Section 9.4. LANGUAGE OF AGREEMENT. This Agreement, its annexes and Project Implementation Letters are prepared in both English and French. In the event of ambiguity or conflict between the two versions, the English language version will control.

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

Republic of Tunisia:

[Signed]

By: BRAHIM TURKI
Secrétaire d’Etat aux Affaires Etrangères¹
Ministry of Foreign Affairs

United States of America:

[Signed]

By: HERMON S. DAVIS
Director/USAID

[Signed]

By: EDWARD W. MULCAHY
Ambassador

¹ Secretary of State for Foreign Affairs.

ANNEX I

PROJECT DESCRIPTION

The proposed project will improve the quality and coverage of health services in two predominantly rural provinces of Tunisia (Siliana and Sidi Bou Zid) through technical assistance aimed at redefining the tasks of the paramedical personnel and the integrated rural health delivery system and through capital assistance to upgrade the facilities and equipment used by the health system in those facilities. The project is expected to be carried out over a three-year period starting in FY 1978 and will require a \$1,000,000 grant for technical assistance and a \$3,000,000 loan for capital assistance, which will be supplemented by an estimated \$1,615,850 contribution from the Tunisian Government.

The bulk of the grant funds for technical assistance will provide for nine person-years of resident technical advisors, one person-year of short-term consultants, and short-term training in the United States for five Tunisians. The technical assistance package is designed as five distinct but complementary components. They are:

Technical Assistance (Grant Funded)

1. Job restructuring and the retraining of frontline health workers.
2. The detailed conceptualization and design of both the system management and the patient record system to support newly integrated preventive and curative services for rural areas.
3. The training and orientation of rural delivery system supervisors and managers, as well as the orientation of community leaders.
4. Support for improved clinical experience in medicine and public health for interns assigned to Siliana and Sidi Bou Zid.
5. Design and implementation of a program of research and evaluation covering the technical and capital assistance areas mentioned in this summary.

Capital Assistance (Loan Funded)

The capital assistance activities include:

The design, renovation, construction and equipping of 41 health facilities which will provide integrated primary health services at the delegation, regroupment and village level.

A portion of the funds is needed for the renovation and equipping of the existing facilities: 8 Type A, 1 Type B and 10 Type C centers in the two provinces. The bulk of the money will be used to finance the construction of new health facilities: 6 Type A, 1 Type B, and 15 Type C centers.

FINANCIAL PLAN

The following are the financial requirements of this project:

From A.I.D.:

Grant

Technical assistance	\$812,000
Participant training	20,000
Library	8,000
Training materials and equipment	60,000
Field trials	100,000
	\$1,000,000

Loan

Facilities renovation	461,250
New construction	2,011,530
Equipment	323,345
Contingency	203,875
	<u>\$3,000,000</u>

From the Cooperating Country (\$ equivalents):

Construction and renovation (25% of materials labor and transport)	
Design of buildings and administration of contracts	844,220
Acquisition of land*	-0-
8 Project vehicles	160,000
Incremental operating costs for new and expanded centers**	486,630
Training support costs (living expenses)	10,000
Support of US contract team	115,000
	<u>\$1,615,850</u>

* Cooperating Country assumes responsibility at no cost to project.

** Includes incremental operating costs for the three years of the project, provided but not separately identified in MOH budget.

Funds will be required according to the following schedule. (All figures are thousands of dollars.)

*FY 1978*****A.I.D.:*

1. Upon satisfaction of the conditions precedent to the first disbursement:

Grant funds

Architectural services	10
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2. Upon satisfaction of conditions precedent to additional disbursements:

Grant funds

Technical assistance contract	586
Library materials	8
Training materials and equipment	38
Field trials	25
Participant training	13
	<u>TOTAL 680</u>

Loan funds

Purchase of equipment	323
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*** The fiscal year of the Cooperating Country corresponds to the calendar year.

3. Upon satisfaction of conditions precedent to disbursements for construction and renovation:

Loan funds

Advance to GOT for 30% of US share (75%) of construction and renovation costs	742
Grant	680
Loan	1,065
TOTAL	1,745

Cooperating Country (\$ equivalents):

25% material, labor	330
Design of plans	20
2 Project vehicles	40
Incremental operating costs (including transport)	p.m. 80
Training costs (GOT budget)	p.m. 3
Trust Fund	51
TOTAL	524

FY 1979

A.I.D.:

Grant funds

Technical assistance contract	216
Training materials	22
Field trials	75
Participant training	7
TOTAL	320

Loan funds

40% of US share construction and renovation costs	989
Grant	320
Loan	989
TOTAL	1,309

Cooperating Country:

Construction cost	450
Incremental operating costs	160
Training costs (MOH budget)	4
Trust Fund	32
3 vehicles	60
TOTAL	706

FY 1980

A.I.D.:

Loan funds

30% of U.S. share of construction and renovation costs	742
TOTAL	742

Cooperating Country:

Construction cost	44
Incremental operating costs	247
Training costs (MOH budget)	3
Trust Fund	32
3 vehicles	60
TOTAL	386

(Contingency)

The annual figures above appear to leave unexpended the \$203,875 contingency amount of A.I.D. financing. It may be expected that these funds will actually be used during project implementation as circumstances require.

TOTAL 204

Disbursement Procedures

A.I.D. assistance to the renovation or construction of rural health centers is provided to reimburse local costs and will be disbursed under a modified Fixed Amount Reimbursement procedure that provides financing in increments that correspond generally to the disbursements made by the Cooperating Country to construction contractors. One advance payment will share the burden of disbursements during construction. The second reimbursement will be made for each center as construction or renovation is completed and accepted, and the final reimbursement for each center will be made when the center is operational. The schedule of reimbursements is as follows:

30% of the total amount allocated for construction and renovation as an advance, upon the satisfaction of the Conditions Precedent listed in Section 5.3 of this Agreement;

40% of the agreed amount for each center when renovation or construction is completed;

30% of the agreed amount for each center when it is operational.

Completion of renovation or construction will be certified by appropriate officers of the Government of Tunisia and of A.I.D. The Tunisian project manager and a member of the contract technical assistance team will certify when each center has become operational, according to a set of criteria that will be established pursuant to Section 5.2 of this Agreement. The Fixed Reimbursement Amount for each center will be the subject of agreement between representatives of the Government of Tunisia and of A.I.D., on the basis of the final designs and cost estimates that are referred to in Section 5.3 of this Agreement. The amount agreed will be the amount reimbursed, with no adjustment for any difference between anticipated cost and actual cost.

Reimbursements for Fixed Reimbursement Amounts will be claimed by the Cooperating Country as the centers are completed, or become operational, but not more often than once in three months. Reimbursement will be made in U.S. dollars.

Disbursements for other elements of the project will be by Letter of Commitment, Letter of Credit or other established disbursement procedure, as appropriate to each type of element.

ANNEX 2

COMBINED LOAN AND GRANT PROJECT STANDARD PROVISIONS ANNEX

Definitions. As used in this Annex, the "Agreement" refers to the Loan and Grant Agreement to which this Annex is attached and of which this Annex forms a part. Terms used in this Annex have the same meaning or reference as in the Agreement.

Article A. PROJECT IMPLEMENTATION LETTERS

To assist the Cooperating Country in the implementation of the Project, A.I.D., from time to time, will issue Project Implementation Letters that will furnish additional information about matters stated in this Agreement. The Parties may also use jointly agreed-upon Project Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Project Implementation Letters will not be used to amend the text of the Agreement, but can be used to record revisions or exceptions which are permitted by the Agreement, including the revision of elements of the detailed description of the Project in Annex 1.

Article B. GENERAL COVENANTS

Section B.1. CONSULTATION. The Parties will cooperate to assure that the purpose of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on the progress of the Project, the performance of obligations under this Agreement, the performance of any consultants, contractors or suppliers engaged on the Project, and other matters relating to the Project.

Section B.2. EXECUTION OF PROJECT. The Cooperating Country will:

- (a) Carry out the Project or cause it to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules or other arrangements, and with any modifications therein, approved by A.I.D. pursuant to this Agreement; and
- (b) Provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of the Project, and, as applicable for continuing activities, cause the Project to be operated and maintained in such manner as to assure the continuing and successful achievement of the purposes of the Project.

Section B.3. UTILIZATION OF GOODS AND SERVICES. (a) Any resources financed under the Assistance will, unless otherwise agreed in writing by A.I.D., be devoted to the Project until the completion of the Project, and thereafter will be used so as to further the objectives sought in carrying out the Project.

(b) Goods or services financed under the Assistance, except as A.I.D. may otherwise agree in writing, will not be used to promote or assist a foreign aid project or activity associated with or financed by a country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such use.

Section B.4. TAXATION. (a) This Agreement, and the Assistance will be free from, and the Principal and interest will be paid free from, any taxation or fees imposed under laws in effect in the territory of the Cooperating Country.

(b) To the extent that (1) any contractor, including any consulting firm, any personnel of such contractor financed under the Assistance, and any property or transaction relating to such contracts and (2) any commodity procurement transaction financed under the Assistance, are not exempt from identifiable taxes, tariffs, duties or other levies imposed under laws in effect in the territory of the Cooperating Country, the Cooperating Country will pay or reimburse the same with funds other than those provided under the Assistance.

Section B.5. REPORTS, RECORDS, INSPECTIONS, AUDIT. The Cooperating Country will:

- (a) Furnish A.I.D. such information and reports relating to the Project and to this Agreement as A.I.D. may reasonably request;
- (b) Maintain or cause to be maintained, in accordance with generally accepted accounting principles and practices consistently applied, books and records relating to the Project and to this Agreement, adequate to show, without limitation, the receipt and use of goods and services acquired under the Assistance. Such books and records will be

audited regularly, in accordance with generally accepted auditing standards, and maintained for three years after the date of last disbursement by A.I.D., and

- (c) Afford authorized representatives of a Party the opportunity at all reasonable times to inspect the Project, the utilization of goods and services financed by such Party, and books, records and other documents relating to the Project and the Assistance.

Section B.6. COMPLETENESS OF INFORMATION. The Cooperating Country confirms:

- (a) That the facts and circumstances of which it has informed A.I.D., or caused A.I.D. to be informed, in the course of reaching agreement with A.I.D. on the Assistance, are accurate and complete, and include all facts and circumstances that might materially affect the Project and the discharge of responsibilities under this Agreement, and
- (b) That it will inform A.I.D. in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Project or the discharge of responsibilities under this Agreement.

Section B.7. OTHER PAYMENTS. The Cooperating Country affirms that no payments have been or will be received by any official of the Cooperating Country in connection with the procurement of goods or services financed under the Assistance except fees, taxes, or similar payments legally established in the territory of the Cooperating Country.

Section B.8. INFORMATION AND MARKING. The Cooperating Country will give appropriate publicity to the Assistance and the Project as a program to which the United States has contributed, identify the Project site, and mark goods financed by A.I.D., as described in Project Implementation Letters.

Article C. PROCUREMENT PROVISIONS

Section C.1. SPECIAL RULES. (a) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.

(b) Premiums for marine insurance placed in the territory of the Cooperating Country will be deemed an eligible Foreign Exchange Cost, if otherwise eligible under Section C.7 (a).

(c) Any motor vehicles financed under the Assistance will be of United States manufacture, except as A.I.D. may otherwise agree in writing.

(d) Transportation by air, financed under the Grant, of property or persons (and their personal effects) will be on carriers holding United States certification, to the extent service by such carriers is available. Details on this requirement will be described in a Project Implementation Letter.

Section C.2. ELIGIBILITY DATE. No goods or services may be financed under the Assistance which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as the Parties may otherwise agree in writing.

Section C.3. PLANS, SPECIFICATIONS, AND CONTRACTS. In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing, the Cooperating Country will furnish to A.I.D. upon preparation:

- (a) Any plans, specifications, procurement or construction schedules, contracts, or other documentation relating to goods or services to be financed under the Assistance, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished A.I.D. on preparation;
- (b) Such documentation will also be furnished to A.I.D., upon preparation, relating to any goods or services which, though not financed under the Assistance, are deemed by

A.I.D. to be of major importance to the Project. Aspects of the Project involving matters under this subsection will be identified in Project Implementation Letters.

Section C.4. REASONABLE PRICE. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the Assistance. Such items will be procured on a fair and, to the maximum extent practicable, on a competitive basis.

Section C.5. NOTIFICATION TO POTENTIAL SUPPLIERS. To permit all United States firms to have the opportunity to participate in furnishing goods and services to be financed under the Assistance, the Cooperating Country will furnish A.I.D. such information with regard thereto, and at such times, as A.I.D. may request in Project Implementation Letters.

Section C.6. SHIPPING. (a) Goods which are to be transported to the territory of the Cooperating Country may not be financed under the Assistance if transported either: (1) on an ocean vessel or aircraft under the flag of a country which is not included in A.I.D. Geographic Code 935 as in effect at the time of shipment, or (2) on an ocean vessel which A.I.D., by written notice to the Cooperating Country, has designated as ineligible; or (3) under an ocean or air charter which has not received prior A.I.D. approval.

(b) Costs of ocean or air transportation (of goods or persons) and related delivery services may not be financed under the Assistance, if such goods or persons are carried: (1) on an ocean vessel under the flag of a country not, at the time of shipment, identified under the paragraph of the Agreement entitled "Procurement Source: Foreign Exchange Costs," without prior written A.I.D. approval; or (2) on an ocean vessel which A.I.D., by written notice to the Cooperating Country, has designated as ineligible; or (3) under an ocean vessel or air charter which has not received prior A.I.D. approval.

(c) Unless A.I.D. determines that privately-owned United States-flag commercial ocean vessels are not available at fair and reasonable rates for such vessels, (1) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by A.I.D. which may be transported on ocean vessels will be transported on privately-owned United States-flag commercial vessels, and (2) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed by A.I.D. and transported to the territory of the Cooperating Country on dry cargo liners shall be paid to or for the benefit of privately-owned United States-flag commercial vessels. Compliance with the requirements of (1) and (2) of this subsection must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

Section C.7. INSURANCE. (a) Marine insurance on goods financed by A.I.D. which are to be transported to the territory of the Cooperating Country may be financed under the Assistance, as a Foreign Exchange Cost under this Agreement provided (1) such insurance is placed at the lowest available competitive rate, and (2) claims thereunder are payable in the currency in which such goods were financed or in any freely convertible currency. If the government of the Cooperating Country, by statute, decree, rule, regulation, or practice discriminates with respect to A.I.D.-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Cooperating Country financed by A.I.D. hereunder will be insured against marine risks and such insurance will be placed in the United States with a company or companies authorized to do a marine insurance business in a State of the United States.

(b) Except as A.I.D. may otherwise agree in writing, the Cooperating Country will insure, or cause to be insured, goods financed under the Assistance imported for the Project against risks incident to their transit to the point of their use in the Project; such insurance will be issued on terms and conditions consistent with sound commercial practice and will insure the full value of the goods. Any indemnification received by the Cooperating Country under such insurance will be used to replace or repair any material damage or any loss of the goods insured or will be used to reimburse the Cooperating

Country for the replacement or repair of such goods. Any such replacement will be of source and origin of countries listed in A.I.D. Geographic Code 935 as in effect at the time of replacement, and, except as the Parties may agree in writing, will be otherwise subject to the provisions of the Agreement.

Article D. TERMINATION; REMEDIES

Section D.1. CANCELLATION BY COOPERATING COUNTRY. The Cooperating Country may, by giving A.I.D. 30 days written notice, cancel any part of the Loan or the Grant which has not been disbursed or committed for disbursement to third parties.

Section D.2. EVENTS OF DEFAULT; Acceleration. It will be an "Event of Default" if the Cooperating Country shall have failed: (a) to pay when due any interest or installment of principal required under this Agreement, or (b) to comply with any other provision of this Agreement, or (c) to pay when due any interest or installment of principal or other payment required under any other loan, guaranty or other agreement between the Cooperating Country or any of its agencies and A.I.D. or any of its predecessor agencies. If an Event of Default shall have occurred, then A.I.D. may give the Cooperating Country notice that all or any part of the unrepaid Principal will be due and payable sixty (60) days thereafter, and, unless such Event of Default is cured within that time:

- (1) Such unrepaid Principal and accrued interest hereunder will be due and payable immediately, and
- (2) The amount of any further disbursements made pursuant to then outstanding commitments to third parties or otherwise will become due and payable as soon as made.

Section D.3. SUSPENSION. If at any time:

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

Then A.I.D. may:

- (1) Suspend or cancel outstanding commitment documents to the extent they have not been utilized through irrevocable commitments to third parties or otherwise, giving prompt notice thereof to the Cooperating Country.
- (2) Decline to issue additional commitment documents or to make disbursement other than under existing ones; and
- (3) At A.I.D.'s expense, direct that title to goods financed under the Assistance be transferred to A.I.D. if the goods are from a source outside Tunisia, are in a deliverable state and have not been offloaded in ports of entry of Tunisia. Any disbursement made under the Loan with respect to such transferred goods will be deducted from Principal.

Section D.4. CANCELLATION BY A.I.D. If, within sixty (60) days from the date of any suspension of disbursements pursuant to Section D.3., the cause or causes thereof have not been corrected, A.I.D. may cancel any part of the Assistance that is not then disbursed or irrevocably committed to third parties.

Section D.5. CONTINUED EFFECTIVENESS OF AGREEMENT. Notwithstanding any cancellation, suspension of disbursement, or acceleration of repayment, the provisions of this Agreement will continue in effect until the payment in full of all Principal and accrued interest hereunder.

Section D.6. REFUNDS. (a) In the case of any disbursement which is not supported by valid documentation in accordance with this Agreement, or which is not made or used in accordance with this Agreement, or which was for goods or services not used in accordance with this Agreement, A.I.D., notwithstanding the availability or exercise of any other remedies provided for under this Agreement, may require the Cooperating Country to refund the amount of such disbursement in U.S. Dollars to A.I.D. within sixty days after receipt of a request therefor.

(b) If the failure of the Cooperating Country to comply with any of its obligations under this Agreement has the result that goods or services financed under the Assistance are not used effectively in accordance with this Agreement, A.I.D. may require the Cooperating Country to refund all or any part of the amount of the disbursements under this Agreement for such goods or services in U.S. dollars to A.I.D. within sixty days after receipt of a request therefor.

(c) The right under subsection (a) or (b) 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 this Agreement.

(d) (1) Any refund under subsection (a) or (b), or (2) any refund to A.I.D. from a contractor, supplier, bank or other third party with respect to goods or services financed under the Assistance, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will be made available first for the cost of goods and services required for the Project, to the extent justified, and the remainder, if any, (i) if derived from Loan funds, will be applied to the installments of Principal in the inverse order of their maturity and the amount of the Loan reduced by the amount of such remainder, and (ii) if derived from Grant funds, will be applied to reduce the amount of the Grant.

(e) Any interest or other earnings on Grant funds disbursed by A.I.D. to the Cooperating Country under this Agreement prior to the authorized use of such funds for the Project will be returned to A.I.D. in U.S. Dollars by the Cooperating Country.

Section D.7. NONWAIVER OF REMEDIES. No delay in exercising any right or remedy accruing to a Party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

Section D.8. ASSIGNMENT. The Cooperating Country agrees, upon request, to execute an assignment to A.I.D. of any cause of action which may accrue to the Cooperating Country in connection with or arising out of the contractual performance or breach of performance by a party to a direct U.S. Dollar contract with A.I.D. financed in whole or in part out of funds granted by A.I.D. under this Agreement.
