

No. 19875

**UNITED STATES OF AMERICA
and
PORTUGAL**

**Project Loan Agreement for basic sanitation II (with
annexes). Signed at Lisbon on 30 September 1977**

Authentic text: English.

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

**ÉTATS-UNIS D'AMÉRIQUE
et
PORTUGAL**

**Accord de prêt relatif à un deuxième projet d'assainis-
sement de base (avec annexes). Signé à Lisbonne le
30 septembre 1977**

Texte authentique : anglais.

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

PROJECT LOAN AGREEMENT¹ BETWEEN PORTUGAL AND THE UNITED STATES OF AMERICA FOR BASIC SANITATION II

Dated: September 30, 1977

A.I.D. Loan Number: 150-K-010
Project Number: 150-0010

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PROJECT LOAN AGREEMENT, dated September 30, 1977, between PORTUGAL ("Borrower") and the UNITED STATES OF AMERICA, acting through the AGENCY FOR INTERNATIONAL DEVELOPMENT ("A.I.D.").

Article I. 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 Borrower of the

¹ Came into force on 30 September 1977 by signature.

Project described below, and with respect to the financing of the Project by the Parties.

Article II. THE PROJECT

Section 2.1. DEFINITION OF PROJECT. The Project, which is further described in Annex 1, will consist of the construction and placing in operation of approximately thirty-eight (38) water supply and/or sewerage handling systems, including sixteen (16) sewerage treatment plants, and the procurement of equipment and services for the basic sanitation sector.

Within the limits of the above definition of the Project, elements of the detailed description stated 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.

Article III. FINANCING

Section 3.1. THE LOAN. To assist the Borrower to meet the costs of carrying out the Project, A.I.D. pursuant to the Foreign Assistance Act of 1961, as amended, agreed to lend the Borrower under the terms of this Agreement not to exceed Twelve Million United States ("U.S.") dollars (\$12,000,000) ("Loan"). The aggregate amount of disbursements under the Loan is referred to as "Principal". The Loan may be used to finance local currency costs, as defined in Section 7.1, and foreign exchange costs, as defined in Section 7.2, of goods and services required for the Project.

Section 3.2. BORROWER RESOURCES FOR THE PROJECT. The Borrower agrees to provide or cause to be provided for the Project all funds, in addition to the Loan, and all other resources required to carry out the Project effectively and in a timely manner.

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 agree to in writing, is the date by which the Parties estimate that all portions of the Project financed jointly by them on a Fixed Amount Reimbursement ("FAR") basis will have been completed, that any services financed under the Loan other than on a FAR basis will have been performed, and that any goods financed under the Loan other than on a FAR basis 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 FAR portions of the Project completed subsequent to the PACD, or, in the case of portions of the Project financed under the Loan other than on a FAR basis, for services performed subsequent to the PACD or 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 8.2 no later than nine (9) months following the PACD, or other such 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 pres-

cribed in Project Implementation Letters, were not received before the expiration of said period.

Article IV. LOAN TERMS

Section 4.1. INTEREST. The Borrower will pay to A.I.D. interest which will accrue at the rate of five percent (5%) per annum 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 8.4) of each respective disbursement, and will be payable semi-annually. The first payment of interest will 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 4.2. REPAYMENT. The Borrower will repay to A.I.D. the Principal within twenty-five (25) 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 four and one-half (4-½) years after the date on which the first interest payment is due in accordance with Section 4.1. A.I.D. will provide the Borrower 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 Borrower 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 Borrower and A.I.D. agree to negotiate, at such time or times as either may request, an acceleration of the repayment of the Loan in the event that there is any significant and continuing improvement in the internal and external economic and financial position and prospects of Portugal, which enable the Borrower to repay the Loan on a shorter schedule.

(b) Any request by either Party to the other to so negotiate will be made in accordance with 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, in accordance with 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 subsection (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 Borrower's Ministry of Foreign Affairs in Portugal.

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 Borrower and A.I.D. under it will cease.

Article V. CONDITIONS PRECEDENT TO DISBURSEMENT

Section 5.1. FIRST DISBURSEMENT FOR EQUIPMENT AND TECHNICAL ASSISTANCE. Prior to the first disbursement under the Loan for equipment and technical assistance, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Borrower will, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) An opinion of the Attorney General (Procurador Geral da República) of Portugal or of other counsel acceptable to A.I.D. that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Borrower, and that it constitutes a valid and legally binding obligation of the Borrower in accordance with all of its terms; and
- (b) A statement of the name of the person holding or acting in the office of the Borrower specified in Section 9.2, and any additional representatives, together with a specimen signature of each person specified in such statement.

Section 5.2. FIRST DISBURSEMENT FOR CONSTRUCTION SUB-PROJECTS. Prior to the first disbursement under this Loan for construction sub-projects, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Borrower, except as the Parties may otherwise agree in writing, will have satisfied the conditions precedent in Section 5.1 and will furnish to A.I.D. in form and substance satisfactory to A.I.D.:

- (a) A description of the arrangements, including the terms and conditions, under which disbursements under the Loan will be made available by the Borrower to the Borrower's Directorate General of Basic Sanitation ("DGSB") of the Ministry of Public Works and by the DGSB to any other institution, for implementation of the Project;
- (b) A time-phased implementation plan for carrying out the Project, including construction schedules and a financial plan for the sub-projects identified in Annex 1;
- (c) A description of standards, criteria and procedures under the Project for (i) selection and approval and (ii) contracting for construction and engineering services;
- (d) Evidence that Borrower has established a segregated fund ("Project Fund") for financing sub-projects identified in Annex 1; and
- (e) Evidence that the Borrower has taken steps to manage, coordinate, monitor, supervise and inspect adequately the sub-projects.

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

Section 5.4. TERMINAL DATES FOR CONDITIONS PRECEDENT. If all of the conditions specified in Section 5.1 and 5.2 have not 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 written notice to the Borrower.

Article VI. SPECIAL COVENANTS

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:

- (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) Assessment 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. TRAINING. Borrower agrees to design and implement training programs and provide training facilities for the professional and sub-professional staffs in the basic sanitation sector.

Article VII. PROCUREMENT SOURCE

Section 7.1. LOCAL CURRENCY 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, except as A.I.D. may otherwise agree in writing, their origin, as defined in a Project Implementation Letter, in Portugal (“Local Currency Costs”).

Section 7.2. FOREIGN EXCHANGE 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 origin in the United States (“Foreign Exchange Costs”), except as A.I.D. may otherwise agree in writing.

Article VIII. DISBURSEMENTS

Section 8.1. DISBURSEMENT FOR LOCAL CURRENCY COSTS. After satisfaction of conditions precedent, the Borrower may, from time to time, request disbursement by A.I.D. of United States dollars for the Project in accordance with the terms and conditions of this Agreement. The number of dollars to be disbursed shall be calculated at the time of each disbursement by dividing the number of Portuguese escudos which the Borrower and A.I.D. agree are eligible for reimbursement by the highest rate of exchange at which A.I.D. could legally have purchased escudos in Portugal on the day of disbursement.

Section 8.2. DISBURSEMENT FOR FOREIGN EXCHANGE COSTS. (a) After satisfaction of conditions precedent, the Borrower may obtain disbursements of funds under the Loan for the Foreign Exchange Costs of goods or services required for the Project in accordance with the terms of this 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, requests for reimbursement for such goods or services;

- (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, through Letters of Credit or otherwise, for such goods or services.

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

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

Section 8.4. DATE OF DISBURSEMENT. Disbursements by A.I.D. will be deemed to occur:

- (a) In the case of disbursements pursuant to Section 8.1, on the date on which A.I.D. disburses United States dollars to the Borrower or its designee;
- (b) In the case of disbursements pursuant to Section 8.2, on the date on which A.I.D. makes a disbursement to the Borrower or its designee, or to a bank, contractor or supplier pursuant to a Letter of Commitment, contract or purchase order.

Article IX. 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 Borrower:

Mail address:

Ministry of Finance
Rua da Alfândega
Lisboa I, Portugal

Alternate address for cables:

Min Fin

To A.I.D.:

Mail address:

A.I.D. Representative
United States Embassy
Avenida Duque de Loulé, 39
Lisboa, Portugal

Alternate address for telegrams:

American Embassy/Lisboa

All such communications will be in English, unless the Parties otherwise agree in writing. 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 Borrower will be represented by the individual holding or acting in the office of Minister of Finance and A.I.D. will be represented by the individual holding or acting in the office of A.I.D. Representative, 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 amplified description in Annex 1. The names of the representatives of the Borrower, 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 "Project Loan Standard Provisions Annex" (Annex 2) is attached to and forms part of this Agreement.

Section 9.4. LANGUAGE OF AGREEMENT. This Agreement is prepared in both English and Portuguese.* In the event of ambiguity or conflict between the two versions, the English language version will control.

IN WITNESS WHEREOF, the Borrower 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.

Portugal:

[Signed]

DR. HENRIQUE DE MEDINA CARREIRA
Minister of Finance

United States of America:

[Signed]

FRANK C. CARLUCCI
Ambassador

ANNEX 1

PROJECT DESCRIPTION

The "Project" consists of:

- (a) Constructing and placing in operation of approximately thirty-eight (38) water supply and/or sewerage handling systems, all with house connections, and treatment plants in rural areas or municipalities of greatest need in Portugal as mutually agreed between the Borrower and A.I.D. ("Construction Sub-Projects"). Four (4) water supply systems will be located in the Autonomous Region of the Açores, and three (3) will be located in the Autonomous Region of Madeira;

* This agreement was signed only in the English language. (Information provided by the Government of the United States.)

- (b) The procurement and installation of approximately five hundred (500) chlorinators to permit chlorination at the source, when and if needed, in both A.I.D. and non-A.I.D.-financed water distribution systems; and
- (c) The furnishing of technical consulting and training services and related supplies and equipment for the basic sanitation sector.

Identification of the specific water and sewerage sub-projects and sewerage treatment plants to be financed under the Loan shall be agreed upon by A.I.D. and the Borrower and set forth in Project Implementation Letters. Attachment 1 to this Annex is a list of sub-projects tentatively approved by the Parties hereto as eligible for inclusion under the Loan.

Prior to the first disbursement of Loan funds for construction costs of each agreed-upon sub-project, A.I.D. will review designs, plans, specifications and cost estimates of each approved sub-project; and, following approval by A.I.D., the Parties hereto shall agree upon a fixed amount to be reimbursed to the Borrower from Loan funds for each approved sub-project. Said fixed amount shall represent not more than seventy-five percent (75%) of the reasonably firm cost estimate of constructing the sub-project. Any substantial change or modification in approved designs, plans, and/or specifications of sub-projects shall be subject to A.I.D.'s review and approval.

The fixed amounts agreed to by the Parties shall be set forth in Project Implementation Letters and shall not be subject to upward or downward adjustment, except that, in the event that sufficient Loan funds are not available to finance the full amount agreed upon for a sub-project or sub-projects because of exchange rate fluctuations, reimbursement to the Borrower will be made to the extent that Loan proceeds are available for the sub-project or sub-projects. Conversely, A.I.D. may finance additional facilities should the availability of loan funds permit.

Borrower shall have the right to request disbursement of Loan funds with respect to each approved sub-project when the following events have occurred:

- (a) 10% of the fixed amount as an advance when a construction contract for a sub-project has been executed;
- (b) 21.67% of the fixed amount when 25% of the work on a sub-project has been satisfactorily completed;
- (c) 21.67% of the fixed amount when 50% of the work on a sub-project has been satisfactorily completed;
- (d) 21.66% of the fixed amount when 75% of the work on a sub-project has been satisfactorily completed;
- (e) 15% of the fixed amount when 90% of the work on a sub-project has been satisfactorily completed;
- (f) Remaining 10% upon acceptance of the sub-project by A.I.D.

Acceptance of a sub-project shall take place upon completion of the sub-project identified in Attachment 1 hereto. Completion shall be construed as the satisfactory physical completion and satisfactory operation of the sub-project according to plans.

Attachment 2 to this Annex is the Financial Plan currently estimated for the activities comprising the Project, including the anticipated inputs by the Borrower and A.I.D. The amounts allocated for the various components are estimates only, and may be adjusted without amendment to this Agreement.

ATTACHMENT I TO ANNEX I

LIST OF CONSTRUCTION SUB-PROJECTS TENTATIVELY APPROVED

<i>District/Region</i>	<i>Concelho/Locality</i>	<i>Type of Sub-Project: Water or Sewerage</i>
Açores (Faial) (São Miguel) (São Miguel) (Sanata Maria)	Horta	Water
	Nordeste	Water
	Povoação	Water
	Vila do Porto	Water
Aveiro	Castelo de Paiva	Water*
Beja	Almodovar	Sewerage*
	Odemira (São Teotónio)	Water
	Odemira (São Teotónio)	Sewerage
Braga	Vila Nova de Famalicão	Water
Bragança	Carrazeda de Anciães	Water*
	Mogadouro	Water
Castelo Branco	Belmonte (Belmonte)	Sewerage*
	Belmonte (Caria)	Sewerage*
	Belmonte (Colmeal)	Sewerage*
	Belmonte (Maçainhas)	Sewerage*
	Sertã	Sewerage*
Évora	Montemor-o-Novo	Water*
Lisboa	Mafra	Water
	Vila Franca de Xira	Sewerage
Madeira	Funchal (Funchal)	Water
	Funchal (Caminho do Lombo)	Water
	Santana	Water*
Portalegre	Elvas and Campo Maior	Water*
	Nisa (Arez)	Sewerage*
	Nisa (Monte Claro)	Water
Porto	Gondomar	Water
Santarém	Abrantes (Souto)	Water
	Abrantes (Abrantes)	Sewerage*
Setúbal	Palmela (Pinhal Novo)	Water
	Palmela (Pinhal Novo)	Sewerage
	Sesimbra	Water
Viana do Castelo	Melgaço	Water*
Vila Real	Alijó (Alijó)	Sewerage*
	Alijó (Favaio)	Sewerage*
	Valpaços (Carrazedo de Monte-negro)	Water
	Valpaços (Carrazedo de Monte-negro)	Sewerage*
Viseu	São João da Pesqueira	Water
	Mangualde and Nelas	Water

* Denotes sub-project with treatment component.

ATTACHMENT 2 TO ANNEX 1

ESTIMATED FINANCIAL PLAN

(In U.S. \$000)

Source	A.I.D.	Borrower	Total
Study/design	-0-	685	685
Construction	11,250	3,751	15,001
Supervision/monitoring	-0-	480	480
Technical assistance	500	167	667
Chlorinator equipment/installation	250	83	333
TOTAL PROJECT COST	12,000	5,166	17,166

ANNEX 2

LOAN PROJECT STANDARD PROVISIONS ANNEX

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Article C. Procurement Provisions	Section D.5. Continued Effectiveness of Agreement
Section C.1. Special Rules	Section D.6. Refunds
	Section D.7. Nonwaiver of Remedies

Definitions. As used in this Annex, the "Agreement" refers to the Project Loan 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 Borrower 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 amplified 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 Borrower 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) Goods and services financed under the Loan 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 goods or services financed under the Loan will be used to promote or assist any foreign aid project or activity associated with or financed by any country other than the United States.

Section B.4. TAXATION. (a) The Borrower agrees to pay, for its own account and in addition to its stated contribution to the Project, any taxes or fees imposed under laws in effect in the territory of the Borrower, on this Loan or this Agreement or on the Principal or interest to be paid pursuant to this Agreement.

(b) To the extent that (1) any contractor, including any consulting firm, any personnel of such contractor financed under the Loan, and any property or transactions relating to such contracts and (2) any commodity procurement transaction financed under the Loan are liable for identifiable taxes, tariffs, duties or other levies imposed under laws in effect in the territory of the Borrower, the Borrower will, as and to the extent provided in and pursuant to Project Implementation Letters, pay or reimburse the same with funds other than those provided under the Loan.

Section B.5. REPORTS, RECORDS, INSPECTIONS, AUDIT. The Borrower 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 Loan. 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.; such books and records will also be adequate to show the nature and extent of solicitations of prospective suppliers of goods and services acquired, the basis of award of contracts and orders, and the overall progress of the Project toward completion; 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 Loan.

Section B.6. COMPLETENESS OF INFORMATION. The Borrower 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 Loan, 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 make its best efforts to 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. INFORMATION AND MARKING. To the extent practicable, the Borrower shall have signs or other appropriate marking erected at each sub-project site identifying the program as being assisted by the United States.

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 Borrower will be deemed an eligible Foreign Exchange Cost, if otherwise eligible under Section C.5 (a).

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

Section C.2. ELIGIBILITY DATE. 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 August 1, 1977, except as the Parties may otherwise agree in writing.

Section C.3. REASONABLE PRICE. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the Loan. Such items will be procured on a fair and, to the maximum extent practicable, on a competitive basis.

Section C.4. NOTIFICATION TO POTENTIAL SUPPLIERS. In the event that imported goods and services are to be procured and financed under the Loan, to permit all United States firms to have the opportunity to participate in furnishing goods and services to be financed under the Loan, the Borrower 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.5. INSURANCE. (a) Marine insurance on goods financed by A.I.D. which are to be transported to the territory of the Borrower may be financed 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 Borrower (or government of the Borrower), by statute, decree, rule, regulation, or practice discriminates with respect to A.I.D.-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Borrower 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 Borrower will insure, or cause to be insured, goods financed under the Loan 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 Borrower 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 Borrower 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.

Section C.6. SHIPPING. (a) Goods which are to be transported to the territory of the Borrower may not be financed under the Loan 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 Borrower 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 Loan, 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 Section 7.2 without prior written A.I.D. approval; or
- (2) On an ocean vessel which A.I.D., by written notice to the Borrower, has designated as ineligible, or
- (3) Under an ocean vessel or air charter which has not received 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 shipment financed by A.I.D. and transported to the territory of the Borrower on dry cargo liners shall be paid to or for the benefit of privately-owned United States-flag commercial vessels.

Compliance with the requirements of (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.

Article D. TERMINATION; REMEDIES

Section D.1. CANCELLATION BY BORROWER. The Borrower may, by giving A.I.D. thirty (30) days written notice, cancel any part of the Loan 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 Borrower 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 Borrower 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 Borrower 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 disbursement 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., after consultation with Borrower, determines to be an extraordinary situation that makes it impossible either that the purpose of the Loan will be attained or that the Borrower 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 Borrower 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 Borrower or any of its agencies and the Government of the United States or any of its agencies;

then A.I.D. may, after giving reasonable notice thereof:

- (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 Borrower;
- (2) Decline to issue additional commitment documents or to make disbursements other than under existing ones; and
- (3) At A.I.D.'s expense, direct that title to goods financed under the Loan be transferred to A.I.D. if the goods are from a source outside Borrower's country, are in a deliverable state and have not been offloaded in ports of entry of Borrower's country. Any disbursements 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 Loan that is not then disbursed or irrevocably committed to third parties.

Section D.5. CONTINUED EFFECTIVENESS OF AGREEMENT. Notwithstanding any cancellation, suspension of disbursements, 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 Borrower to refund the amount of such disbursement 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 (3) years from the date of the last disbursement under this Agreement.

(b) (1) Any refund under the preceding subsection, 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 Loan, which refund related 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, (A) be made available first for the cost of goods and services required for the Project, to the extent justified, and (B) the remainder, if any, 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.

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.