

No. 23146

**UNITED NATIONS
(UNITED NATIONS DEVELOPMENT PROGRAMME)
and
COSTA RICA**

Letter of Agreement for management services to be provided by UNDP in respect of a project financed by the United States Agency for International Development (US/AID) (with appendices). Signed at San José on 28 September 1984, and at New York on 23 November 1984

Authentic text: English.

Registered ex officio on 23 November 1984.

**ORGANISATION DES NATIONS UNIES
(PROGRAMME DES NATIONS UNIES
POUR LE DÉVELOPPEMENT)
et
COSTA RICA**

Lettre d'Accord relative à la fourniture par le PNUD de services administratifs pour un projet financé par l'Agency for International Development (AID) des États-Unis d'Amérique (avec annexes). Signé à San José le 28 septembre 1984, et à New York le 23 novembre 1984

Texte authentique : anglais.

Enregistré d'office le 23 novembre 1984.

LETTER OF AGREEMENT¹ BETWEEN THE GOVERNMENT OF COSTA RICA AND UNDP FOR MANAGEMENT SERVICES TO BE PROVIDED BY UNDP IN RESPECT OF A PROJECT FINANCED BY US/AID

23 Aug. 1984

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Dear Mr. Morse,

1. Reference is made to the consultations between officials of the Government of Costa Rica (hereinafter referred to as the "Government") and of the United Nations Development Programme (hereinafter referred to as "UNDP") with respect to management services to be provided by UNDP, acting through its Office for Projects Execution, (hereinafter referred to as "UNDP/OPE") as specified in this Letter of Agreement (hereinafter referred to as "this Agreement"). The Government, after consultations with the United States Agency for International Development (hereinafter referred to as "US/AID"), has decided to use a portion of the proceeds of the grants it obtained from the US/AID in connection with financing the Investment Promotion project (COS/84/001) (hereinafter referred to as the "Project") and to engage UNDP/OPE in accordance with this Agreement to provide such services in respect of the Project. The Government shall be represented by the Ministry of Planning and Economic Policy for all matters related to the implementation of this Agreement.

2. (a) UNDP/OPE shall be responsible for the provision of the services described in Appendix I to this Agreement (hereinafter called "the Services"). The duration of the Services is estimated to be two years, calculated from the date on which this Agreement becomes effective in accordance with the provisions of paragraph 16 hereof.

(b) The Government shall retain overall responsibility for the implementation of the Services under the Project.

(c) UNDP/OPE and the Government shall consult closely with respect to all aspects of the provision of the Services under this Agreement.

3. (a) The total cost of the Services, including an amount equivalent to US\$ 24,000.00 for UNDP management fee, is estimated at the equivalent of US\$ 510,000.00 as set forth in the Budget which is attached as Appendix II hereto. This amount shall not be exceeded without the prior consent of the Government.

(b) The Government undertakes, promptly after the effective date as defined in paragraph 16 of this Agreement, to submit to US/AID an application for withdrawal copied to UNDP/OPE covering the total cost of the Services specified above and the UNDP management fee.

4. (a) Upon receipt by UNDP/OPE of notice from US/AID that the application specified in paragraph 3(b) has been received in good order, UNDP/OPE, through the Resident Representative, shall request US/AID to make direct payment according to the following payment schedule to cover the estimated cost of the provision of the Services and the related UNDP management fee:

¹ Came into force on 23 November 1984 by signature, in accordance with paragraph 16.

September 1984: The equivalent of US\$ 176,000.00 (upon signature of this Agreement);
March 1985: The equivalent of US\$ 146,000.00;
September 1985: The equivalent of US\$ 106,000.00;
March 1985: The equivalent of US\$ 82,000.00;
Total for the equivalent of US\$ 510,000.00.

UNDP/OPE undertakes to copy these requests to the Government.

(b) US/AID payments to UNDP/OPE shall be made on behalf of the Government and they shall not prejudice the Government's right to dispute any amount claimed by UNDP/OPE and instruct US/AID to adjust any future payment by the amount in dispute. The Government also retains the right to terminate this arrangement by notice to UNDP/OPE and US/AID or to advise US/AID of agreed changes to the schedule of payments.

(c) All financial transactions shall be recorded by UNDP in a separate ledger account established for this purpose for the receipt and administration of such payments. All payments to UNDP shall be made in Costa Rican colones and paid into the account No. 12145-9 at Banco Nacional de Costa Rica in San José at the UN operational rate of exchange in effect on the date of payment and in accordance with the payment schedule mentioned in paragraph 4(a).

Should there be a change in the UN operational rate of exchange prior to the full utilization by UNDP of the amount(s) paid, the US dollar value of the balance of funds still held at that time shall be adjusted accordingly. If, in such a case, a loss in the US dollar value of the balance of funds is recorded, UNDP shall request the Government for such further financing as may be necessary.

(d) UNDP/OPE shall not be required to commence or continue the provision of the Services until the respective payments referred to above have been received and the UNDP shall not assume any liability in excess of the funds paid into the account referred to above.

5. (a) UNDP/OPE, having satisfied itself that the IDA of Ireland is a contractor suitable to perform the Services, shall subcontract all of the Services specified in Appendix I to the Industrial Development Agency (IDA) of Ireland, provided that the hiring of the subcontractor, and the terms and conditions thereof, shall be made after clearance by the Government and after approval by the Chief Procurement Officer of UNDP.

(i) UNDP/OPE shall make the arrangements it deems necessary to meet all payments due IDA and any other expenses in connection with its assignment within the limitations of paragraph 4 *d* above.

(ii) In the discharge of its responsibilities in accordance with the respective terms of reference in its contract, IDA shall work under the supervision of the designated Government Agency responsible for the Project, shall co-operate closely with Government staff and shall assist in Project implementation in accordance with the overall directives laid down by the Government in consultation with UNDP/OPE. UNDP/OPE shall provide IDA with appropriate guidance, administrative support and advisory services as UNDP may deem necessary for the successful implementation of the Services.

6. Except as otherwise agreed in writing between the Government and UNDP, the Government shall be responsible, out of resources other than those specified in Appendix II, for the recruitment, employment and social costs of the national staff as well as for the supporting administrative services such as local secretarial and other personnel services, office space, equipment and supplies produced locally, transportation within the country and communications as required for the implementation of the Project and the Services.

7. All financial accounts and statements shall be expressed in United States dollars and shall be subject exclusively to the internal and external auditing procedures laid down in the Financial Regulations, Rules and directives of UNDP.

8. The following general financial and accounting arrangements shall be followed in respect of the Services under this Agreement:

(a) Expenditures for subcontracting as may be provided in Appendix II shall be specified in the contract between UNDP and IDA and shall be limited to the costs arising from such contract. Adjustments in the duration of IDA's services, referred to in Appendix II, may be made after consultation between the Government and UNDP/OPE if this is found to be in the best interest of the Project.

(b) If, due to unforeseen circumstances, the funds received under this Agreement prove to be insufficient to cover the total costs of the Services, UNDP/OPE shall inform the Government accordingly. The Parties shall then hold consultations with a view to agreeing upon appropriate modifications to the Services so as to ensure that the funds provided by the Government shall be sufficient to cover all expenses for the Services.

9. (a) UNDP/OPE shall submit such reports relating to the Services as may reasonably be required by the designated Government Agency responsible for the project.

(b) Following UNDP's completion of the Services, a final statement of expenditure shall be submitted to the Government through the UNDP Resident Representative in accordance with the format given in Appendix III.

10. Any balance of funds that is undisbursed and uncommitted by UNDP/OPE on the completion of the Services shall be held in the ledger account referred to above in paragraph 4 (c) at the disposal of the Government.

11. (a) The Basic Assistance Agreement between UNDP and the Government, signed on August 7, 1973,¹ shall be applicable, *mutatis mutandis*, to all matters not specifically dealt with in this Agreement. In particular, the Government has decided to extend the facilities, exemptions, privileges and immunities as specified in Articles IX and X of the said Basic Assistance Agreement, to all persons, natural or juridical, including IDA and its personnel performing services under this Agreement.

(b) In accordance with the above referenced Basic Agreement, as assistance under this Agreement is being provided for the benefit of the Government and people of Costa Rica, the Government shall bear all risks of operations arising under this Agreement. It shall be responsible for dealing with claims which may be brought by third parties against the UNDP, their officials or other persons performing services on their behalf, and shall hold them harmless in respect of claims or liabilities arising from operations under this Agreement. The foregoing provision shall not apply where the Parties hereto are agreed that a claim or liability arises from the gross negligence or willful misconduct of the above-mentioned individuals.

12. (a) Any dispute, controversy or claim arising out of or in connection with this Agreement or any breach thereof, shall, unless it is settled by direct negotiation, be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force. The Parties hereto agree to be bound by any arbitration award rendered in accordance with this section as the final adjudication of any dispute.

(b) Nothing in or relating to any provision in this Agreement shall be deemed a waiver of the privileges and immunities of the United Nations, including UNDP.

¹ United Nations, *Treaty Series*, vol. 885, p. 13.

13. Any amendment to this Agreement or any Appendices hereto shall be effected by mutual agreement of the Parties through an appropriate supplementary letter of agreement.

14. All correspondence regarding the implementation of this Agreement, other than this signed letter of Agreement or amendments thereto, shall be addressed to: The General Coordinator of the Export and Investment Programme, Presidency of the Republic, San José, Costa Rica and to Mr. B. Bernander, Director of UNDP/OPE through the Office of the UNDP Resident Representative in San José, Costa Rica.

15. The Government shall keep the UNDP Resident Representative fully informed of all actions undertaken by it in carrying out, or that may affect, this Agreement.

16. This Agreement shall become effective on the date on which it has been signed by both Parties hereto.

17. (a) This Agreement may, at any time, be terminated by the Government by written notice to UNDP.

(b) This Agreement may, at any time, be terminated by UNDP by written notice to the Government, if, in the opinion of UNDP, an event beyond the reasonable control of UNDP occurs which makes it impossible for UNDP to carry out its obligations under this Agreement.

(c) This Agreement shall terminate sixty days after receipt of a notice under subparagraphs (a) or (b).

(d) The obligations assumed by the Parties under this Agreement shall survive the termination of the Agreement to the extent necessary to permit the orderly conclusion of activities, the withdrawal of personnel, funds and property, the settlement of accounts between the Parties hereto and the settlement of contractual liabilities that are required in respect of IDA.

18. If you are in agreement with the above, would you kindly sign and return to this office two copies of this Letter of Agreement.

Very truly yours,

[Signed]

For the Government
of Costa Rica:

By:

Name: J. M. VILLASUSO

Title: Minister of Planning

Date: 28 September 1984

Agreed on behalf of UNDP:

By: [Signed — Signé]¹

Name: For BRADFORD MORSE

Title: Administrator of UNDP

Date:

¹ Signed by A. Brown — Signé par A. Brown.

TECHNICAL ASSISTANCE TO THE GOVERNMENT OF COSTA RICA FOR
THE PROMOTION OF INVESTMENT, THROUGH A USAID GRANT

APPENDIX I. DESCRIPTION OF SERVICES

28 August 1984

UNDP will provide to the Government of Costa Rica the following services through subcontract:

An expert will be provided for a period of two years. He will report to the Chief Executive of MINEX and will liaise with other agencies supporting the promotion of investment. His duties will be to:

- Assist in the creation of new policies in the development of exporting investment;
- Support efforts to resolve the longer termed problems including institutional development of the agencies involved in investment.
- Assist in the resolution of short term difficulties including the formulation of an effective investment marketing strategy and supporting specific investment promotion activities.
- Assist in liaising with funding agencies in the securing of additional funds to support investment promotion.
- Assist in the training of staff at MINEX.

In addition, specific activities will be undertaken by the expert supported by short term consultancies as follows:

1. *Industrial Planning*

An overall planning framework will be drawn up within which industry can be developed. It will:

- Review the targeting approach being taken for employment creation;
- Review the support requirements from other organizations;
- Clarify policy concerning investment origin (domestic vs overseas), large vs small industry, product sector type (in outline) regional dispersion of jobs, and the required responses from MINEX.

2. *Sectorial Analysis*

A review will be undertaken of the sectors most appropriate to Costa Rica's development and in particular those in the non-traditional areas. Project profiles will be extracted in four target sectors in a presentation format which can be used by executives in company visits.

3. *Marketing Strategy*

A marketing strategy will be developed which will be used in the promotional stages of this programme. It will include the identification of target areas within the U.S. to be promoted, formulating the promotional campaign to be used and the form of on-the-ground support necessary, develop specific activities to be implemented under each promotional phase of the programme.

4. *Market Research*

Market research will be carried out in two target locations in the United States covering four sectorial areas identified in (2) above. The objective will be to identify target investing companies.

In addition a review will be undertaken of the existing company research systems in Costa Rica and recommendations made covering the following:

- Hard copy sources of information
- Specialized information services
- Computer/on-line services

Criteria will be established for company selection in line with the product sector research previously carried out. A parallel system will also be developed for use overseas dependant on the form of overseas representation.

5. *Development of Procedures for Overseas Representatives*

Whatever the form of overseas representation, those people working in the market place should have well defined operating systems covering records paperwork, organization of time reporting systems and other general procedures that will lead to effective operations. This will be implemented by a short termed expert for a period of four weeks and the long term expert over the same period.

6. *Public Relations and Advertising*

Because Costa Rica is sometimes associated with the troubles in other parts of Central America, it will be important for the country to promote its image as peaceful and democratic with a stable political system. An advertising and P.R. function will be necessary.

7. *Training in Investment Promotion*

Training will be carried out both in San José to cover immediate short term requirements and training in IDA programmes in Dublin covering longer term requirements.

APPENDIX II. BUDGET FOR SERVICES TO BE PROVIDED BY UNDP

	<i>Total</i>	<i>1984</i>	<i>1985</i>	<i>1986</i>
20 SUBCONTRACT				
21 Subcontract	486,000	170,000	240,000	76,000
29 Component total	486,000	170,000	240,000	76,000
93 Support costs	24,300	8,500	12,000	3,800
99 PROJECT TOTAL	510,300	178,500	252,000	79,800

APPENDIX III. FINAL STATEMENT OF EXPENDITURES

At the end of the project UNDP will submit to the Government of Costa Rica a final statement of expenditure. Since the implementation of this project is planned by subcontract this statement will include details on the payments made to the subcontractor by items and dates.