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A.I.D. Loan No. 386-T-229

A.I.D. Project No. 386-0475

PROJECT LOAN AND GRANT AGREEMENT

Between

THE PRESIDENT OF INDIA

and

THE UNITED STATES OF AMERICA

for

MADHYA PRADESH SOCIAL FORESTRY

(Conformed Copy)

Dated: September 30, 1981

TABLE OF CONTENTS

	<u>Page</u>
Article 1: The Agreement	1
Article 2: The Project	1
SECTION 2.1. Definition of Project	1
SECTION 2.2. Incremental Nature of Project	2
Article 3: Financing	2
SECTION 3.1. The Grant; The Loan	2
SECTION 3.2. Cooperating Country Resources for the Project	3
SECTION 3.3. Project Assistance Completion Date	3
Article 4: Loan Terms	4
SECTION 4.1. Interest	4
SECTION 4.2. Repayment	4
SECTION 4.3. Application, Currency, and Place of Payment	5
SECTION 4.4. Prepayment	5
SECTION 4.5. Renegotiation of Terms	5
SECTION 4.6. Termination on Full Payment	6
Article 5: Conditions Precedent to Disbursement	6
SECTION 5.1. First Disbursement	6
SECTION 5.2. Disbursement for Construction	7
SECTION 5.3. Notification	7
SECTION 5.4. Terminal Dates for Conditions Precedent	7
Article 6: Special Covenants	8
Article 7: Procurement Source	9
SECTION 7.1. Foreign Exchange Costs	9
SECTION 7.2. Local Currency Costs	9

		<u>Page</u>
Article 8:	Disbursements	10
SECTION 8.1.	Disbursement for Foreign Exchange Costs	10
SECTION 8.2.	Disbursement for Local Currency Costs	11
SECTION 8.3.	Other Forms of Disbursement	11
SECTION 8.4.	Rate of Exchange	11
SECTION 8.5.	Date of Disbursement	11
Article 9:	Miscellaneous	12
SECTION 9.1.	Communications	12
SECTION 9.2.	Representatives	13
SECTION 9.3.	Standard Provisions Annex	13
SECTION 9.4.	Language of Agreement	13
Annex 1	Project Description	1
Annex 2	Project Loan & Grant Standard Provisions Annex	1
Article A:	Project Implementation Letters	1
Article B:	General Covenants	1
SECTION B.1.	Consultation	1
SECTION B.2.	Execution of Project	2
SECTION B.3.	Utilization of Goods and Services	2
SECTION B.4.	Taxation	3
SECTION B.5.	Reports, Records, Inspection, Audit	3
SECTION B.6.	Completeness of Information	4
SECTION B.7.	Other Payments	4
SECTION B.8.	Information and Marking	4
Article C:	Procurement Provisions	5
SECTION C.1.	Special Rules	5
SECTION C.2.	Eligibility Date	5
SECTION C.3.	Plans, Specifications, and Contracts	6
SECTION C.4.	Reasonable Price	6
SECTION C.5.	Notification to Potential Suppliers	7
SECTION C.6.	Shipping	7
SECTION C.7.	Insurance	8
SECTION C.8.	U.S. Government-owned Excess Property	9

		<u>Page</u>
Article D:	Termination; Remedies	9
SECTION D.1.	Cancellation by Cooperating Country	9
SECTION D.2.	Events of Default; Acceleration	10
SECTION D.3.	Suspension	10
SECTION D.4.	Cancellation by AID	11
SECTION D.5.	Continued Effectiveness of Agreement	12
SECTION D.6.	Refunds	12
SECTION D.7.	Nonwaiver of Remedies	13
SECTION D.8.	Assignment	13

A.I.D.Loan No. 386-T-229

A.I.D.Project No. 386-0475

Project Loan and Grant Agreement

Dated: September 30, 1981

Between

The President of India ("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 herein, and with respect to the financing of the Project 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 the establishment of a Social Forestry Directorate in the State of Madhya Pradesh to assist the State and the villages therein in managing non-traditional forest lands, communal and private lands for increasing the supply of fuelwood, fodder, small timber and other forest products. Approximately 63,450 hectares of mixed plantations adjacent to rural villages will be planted under the Project. Annex 1, attached, amplifies the definition of the Project contained in this Section 2.1. Within the limits of the definition of the Project in this Section 2.1, elements of the amplified 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.

SECTION 2.2. Incremental Nature of Project

(a) A.I.D.'s 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 funds to A.I.D. for this purpose, and to mutual agreement of the Parties, at the time of a subsequent increment, to proceed.

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

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, intends to provide up to Twenty Five Million United States ("U.S.") Dollars (\$25,000,000) in increments, to support the Project, including Twenty Four Million U.S. Dollars (\$24,000,000) in Loan Funds and One Million U.S. Dollars (\$1,000,000) in Grant Funds. As an initial increment, and subject to the Terms and Conditions of this Agreement, A.I.D. agrees to grant the Cooperating Country not to exceed One Million U.S. Dollars (\$1,000,000) ("Grant") and to lend the Cooperating Country 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 Cooperating Country intends to provide a matching contribution for this Project up to the equivalent of Twenty Five Million U.S. Dollars (\$25,000,000). For this Agreement, the equivalent of U.S. \$3,000,000 including costs borne on an "in-kind" basis shall be provided by the Cooperating Country.

SECTION 3.3. Project Assistance Completion Date

(a) The "Project Assistance Completion Date" (PACD), which is March 31, 1987, 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., 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 A.I.D. interest which will accrue at the rate of two percent (2%) per annum for ten years following 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 of the Loan, and will be payable semiannually. The first payment of interest will be due and payable no later than six (6) months after the first disbursement of the Loan, on a date to be specified by A.I.D.

SECTION 4.2. Repayment. The Cooperating Country will pay to A.I.D. the Principal within forty (40) years from the date of the first disbursement of the Loan in sixty-one (61) approximately equal semi-annual instalments of Principal and interest. The first instalment 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 instalments 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 India 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.

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 Parties hereunder will terminate, except with respect to any obligations arising out of the expenditure of Grant funds.

Article 5: Conditions Precedent to Disbursement

SECTION 5.1. First Disbursement. Prior to the first disbursement of the Assistance, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, 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 names of the persons holding or acting in the office of the Cooperating Country specified in Section 9.2, and a specimen signature of each person specified in such statement;

(c) Evidence of the establishment and staffing adequate to initiate operations of a Social Forestry Directorate, together with a statement of its scope, organizational structures and duties;

(d) Evidence of the establishment of a State Inter Departmental Policy Committee, its constitution and a statement of its procedures and functions;

(e) Description of the content of the management plan that is intended to be used for Social Forestry activities including social and legal arrangements envisaged with participating Panchayats.

SECTION 5.2. Disbursement for Construction. Prior to any disbursement for individual construction activities under this Assistance or to the issuance by A.I.D. of documentation pursuant to which such disbursement will be made, the Cooperating Country shall, except as A.I.D. may otherwise agree in writing, furnish in form and substance satisfactory to A.I.D. detailed drawings and specifications for all types of buildings to be constructed.

SECTION 5.3. Notification. When A.I.D. has determined that the conditions precedent specified in Section 5.1 have been met, it will promptly notify the Cooperating Country.

SECTION 5.4. Terminal Dates for Conditions Precedent. If all of the Conditions specified in Section 5.1 have not been met within ninety

days from the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement by written notice to the Cooperating Country.

Article 6. Special Covenants

SECTION 6.1. Except as the Parties may otherwise agree in writing, the Cooperating Country agrees that the following actions, in form and substance satisfactory to both parties, will be undertaken:

(a) Establishment of an evaluation program as an integral part of the Project, which includes the establishment of a monitoring and evaluation unit within the Social Forestry Directorate by June 1982, which will be adequately staffed by the end of 1982. The program will include, during the implementation of the Project and at one point thereafter (1) evaluation of progress toward attainment of the objectives of the Project; (2) identification and evaluation of problem areas or constraints which may inhibit such attainment; (3) assessment of how such information may be used to help overcome such problems; and (4) evaluation to the degree feasible, of the overall development impact of the Project.

(b) Establishment of a planning and research unit for the Project by April 1982 which will be adequately staffed by March 1983, and development of a research plan by May 1982;

(c) Development of a training plan by June 1982 under the Social Forestry Directorate;

(d) Submission to A.I.D., by October 1982 of sample agreements and guidelines indicating the relations between the Forest Department and Panchayats as further described in Annex 1, Project Description; and

(e) Agreement that there will be no recovery of costs by the Government of Madhya Pradesh for the establishment of Panchvans, as more fully set forth in Annex 1, Project Description.

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 where Loan financed, and in the United States Code 000 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods or services where Grant financed, ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Standard Provisions Annex, C.1 (a) with respect to ocean shipping and 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 India ("Local Currency Costs"). To the extent provided for under this Agreement, "Local Currency Costs" may also include the provision of local currency resources required for the Project.

Article 8. Disbursements

SECTION 8.1. Disbursement for Foreign Exchange Costs. After satisfaction of conditions precedent, the Cooperating Country may obtain disbursement of funds under the Assistance 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, through Letters of Credit or otherwise, for such goods or services.

Banking charges incurred in connection with Letters of Commitment and Letters of Credit shall be for the account of the Cooperating Country and may 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 Assistance 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 local currency needed for such disbursement hereunder shall be purchased by A.I.D. with U.S. Dollars from the Reserve Bank of India. The U.S. dollar equivalent of the local currency made available hereunder will be the amount of U.S. dollars required by A.I.D. to obtain the local currency.

SECTION 8.3. Other Forms of Disbursement. Disbursement of the Assistance may also be made through such other means as the Parties may agree to in writing.

SECTION 8.4. Rate of Exchange. If funds provided under the Assistance are introduced into India by A.I.D. or any public or private agency for purposes of carrying out obligations of A.I.D. hereunder, the Cooperating Country will make such arrangements as may be necessary so that such funds may be converted into currency of India at the highest rate of exchange which, at the time the conversion is made, is not unlawful in India.

SECTION 8.5. Date of Disbursement. Disbursement by A.I.D. will be deemed to occur (a) 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; (b) on the date on which A.I.D. disburses to the Cooperating Country or its designee local currency acquired in accordance with Section 8.2 (b).

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:

Mail Address: Secretary to the Government of India
Department of Economic Affairs
Ministry of Finance
New Delhi

Alternate Address for telegrams: ECOFAIRS, New Delhi

To A.I.D.

Mail Address: Mission Director
USAID
American Embassy, West Building
New Delhi

Alternate Address for telegrams: USAID, New Delhi

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 Cooperating Country will be represented by the individual holding or acting in the office of Joint Secretary, Department of Economic Affairs, Ministry of Finance and A.I.D. will be represented by the individual holding or acting in the office of Mission Director, each of whom, by written notice, may designate additional representative for all purposes other than exercising the power under Section 2.1 to revise elements of amplified 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 is prepared in both English and Hindi. In the event of ambiguity or conflict between the two versions, the English language version will be used for final interpretation.

A.I.D. Loan No. 386-T-229

Project No. 386-0475

Project Description

The goal of this project is to increase the supply of fuelwood, fodder, small timber, and other forest products on lands adjacent to rural villages in Madhya Pradesh (M.P.) to benefit the inhabitants of these villages. The project will provide the institutional capability to assist such villages to manage communal and private land for sustained production of these forest products. This will be accomplished through the establishment of a Social Forestry Directorate within the M.P. Forest Department with full responsibility for the development of this program. Under the direction of the Directorate and in agreement with local panchayats, mixed plantations will be established adjacent to the villages with some plantings also along road, rail and canal sides; seedlings to increase forest production on private land will also be provided. The major aspects of the Social Forestry Directorate program will include:

(a) an extension program for planning and coordination, providing information, motivation, training and operational demonstrations at the district and local levels;

(b) an implementation program supplying logistical support for the extension program in the form of seed and seedling production and plantation establishment;

(c) an information and problem solving network consisting of (i) an advisory committee system to present needs and problems from the viewpoint of local government and cooperating state agencies and function as a problem solving forum for considering legal, political, social and other related issues encountered by the Directorate, (ii) a technical monitoring and evaluation branch providing information on program accomplishments and problems in both social sciences and forestry operations, and (iii) a research program to address problems of an applied nature in both social sciences and forestry; and

(d) an administrative program to give program direction and coordination to the overall social forestry efforts and direct a substantial program for formal education and in-service training.

The Social Forestry Directorate will be headed by a Director General of Social Forestry with the rank of a Chief Conservator of Forests (CCF). Under the Director General will be two Additional Director Generals, one for administration and one for planning, training and research. The Additional Director General for administration has basic responsibility for the extension and reforestation program along with monitoring. The second Additional Director General is responsible for support programs. The overall staff of the Directorate will consist of about 3300 employees including 80 gazetted officers, 30 research personnel, 1800 extension personnel and 1390 subprofessional support personnel.

The project will be expanded over a six year period. The first two years will be used to build and train an extension organization, initiate research and establish pilot plantations and extension programs in 15 districts of the state. In the last 4 years the program will be extended to 14 additional districts.

AID, pursuant to the terms and conditions of this Agreement, will provide 50% of financing of the overall project activities. The major components included for financing are staff, operations, nurseries, plantations, scholarships, grants and consultancies, equipment and buildings. The share of AID financing for each of these items is shown in Attachment A to this Annex.

In addition to the establishment of the Social Forestry Directorate, the major outputs of the project will be seedlings for planting on private land and mixed plantations, supplying fuelwood, fodder, small timber and fruit and other minor products planted on government and community lands. It is anticipated that during the life of the project, these mixed plantations will be planted on approximately 63,450 hectares of marginal or degraded land adjacent to villages. The project is expected to supply 25 percent of the current annual firewood needs in 5,000 villages in addition to other products coming from these plantations. The project is intended to have a significant impact on rural employment, both during the development stage in the establishment of these plantations or "panchvans" and in the continued maintenance and harvesting of such plantations when they are fully developed. It is estimated that 30 million person days of employment will be provided during the project life.

Since women are major gatherers and users of forest products, it is expected that women will have an important role in project implementation. Employment opportunities will be created in the development of panchvans where women have traditionally provided labor for such things as digging pits, trenches and hauling water. There will be an increasing opportunity to employ women in nursery operations as well as to serve as extension officers and extension workers. Qualified women will be actively recruited for these positions including tribal women for those panchvan programs in tribal areas as appropriate.

AID will provide \$1 million of grant financing primarily to support scholarships, training grants, consultancies, and research and studies envisioned under the program. It is contemplated that required technical assistance will be provided through contracts with one or more U.S. organizations or Indian institutions. Training will consist of both in-country training, short and long term courses in the United States, and training in designated third countries.

Since the relationships and cooperation between panchayats and the Forestry Department will be critical to project success, an agreement between these two institutions based on a management plan is considered important in establishing roles and responsibilities of each. While flexibility is necessary to reflect the preferences of various panchayats and varying administrative and fiscal situations under which a panchvan will be established, in general these agreements should address the following:

- (1) Land to be used for the panchvan and species to be planted.
- (2) Responsibility for establishment, maintenance and protection of the panchvan.
- (3) Training to be provided by the Social Forestry Directorate for the villagers.
- (4) Conditions for panchvan expansion.
- (5) A mechanism for making management decisions.

The panchvan schemes are in essence to be developed for the benefit of the panchayat and with panchayat participation. It is also anticipated that at some point the panchayat will take over full responsibility for these plantations. Thus, the agreement should further indicate how the reimbursement of funds allocated by the Directorate for panchvan establishment and protection will be made to the panchayat; specify the steps which the panchayat would need to accomplish prior to full control of the panchvan

schemes being vested in the panchayats; and define the method of distributing production from the panchvan within the panchayat.

Since the objective of the program is to provide increased forest production, primarily on revenue and forest lands traditionally used by villagers for the benefit of the village, the entire production obtained from such panchvans should accrue to the panchayat involved. Consequently, the government will not seek to recover costs for the establishment of these panchvans but permit the entire production to accrue to the benefit of the panchayat.

The Social Forestry Directorate will provide a continuous monitoring and evaluation service as part of its program. This service will encompass both the social and forestry aspects of the project. Two major project reviews are planned during the six year implementation life. The first review shall be made in the spring of 1983 in consultation with the Social Forestry Directorate. A similar review will be scheduled for the spring of 1985 to assess overall project accomplishments and to assist in determining the desirability and timing for a follow-on project involving AID assistance.

A.I.D. Loan No. 386-T-229

A.I.D. Project No. 386-0475

PROJECT FINANCIAL PLAN
(in \$ 000)

Project Components	Cum.Obligation/ Commitments as of August 1981		Future years anticipated		T o t a l	
	GOMP	AID	GOMP	AID	GOMP	AID
Staff	617	617	4,317	4,317	4,934	4,934
Operations	300	300	2,101	2,101	2,401	2,401
Nurseries	388	388	2,717	2,717	3,105	3,105
Plantations	1,164	1,164	8,150	8,150	9,314	9,314
Scholarships	-	520 ✓	-	-	-	520
Grants and Consultancies	-	480 ✓	-	-	-	480
Equipment	199	199	1,393	1,393	1,592	1,592
Buildings	332	332	2,716	2,322	3,048	2,654
Remodelling of Train- ing and Research Institutes	-	-	606	-	606	-
T O T A L	3,000	4,000	22,000	21,000	25,000	25,000

Project Loan and Grant
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 after consultation with the Cooperating Country 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 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 purpose 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 and 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 any of the Central, State (including Union Territories), City or Municipal laws in effect in India;

(b) No proceeds of the Loan and Grant shall be disbursed on account of payment of identifiable taxes, tariffs, duties or other levies imposed by or under any of the Central, State (including Union Territories), City or Municipal laws of the Cooperating Country on goods and services or on the importation, manufacture, procurement or supply thereof. A Project Implementation Letter, jointly agreed upon, will be issued indicating the details of the implementation of this sub-section.

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, 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.; 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.I.D. the opportunity at all reasonable time to inspect the Project, the utilization of goods and services financed by A.I.D. 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. Ocean shipping financed under the Assistance will be of United States or Indian source and origin except as A.I.D. may otherwise agree in writing. Cost of ocean shipping on vessels under flag registry of the Cooperating Country will be deemed an eligible Foreign Exchange Cost, if otherwise eligible under Section C.6 (b).

(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) No motor vehicles will be financed under the Assistance except as A.I.D. may otherwise agree in writing.

(d) Transportation by air, financed under the Grant, of property or person, 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 April 1, 1981, 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:

(a) The Cooperating Country will furnish to A.I.D. upon preparation, 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 as described in Project Implementation Letters. Material modifications in such documentation will likewise be furnished to A.I.D. on preparation;

(b) Such documents as described in Project Implementation Letters related to the prequalification of contractors, and to the solicitation of proposals for goods and services financed under the Assistance will be approved by A.I.D. in writing prior to their issuance;

(c) As specified in Project Implementation Letters contracts and contractors financed under the Assistance for engineering and other professional services, for construction services, and for such other services, equipment or materials will be approved by A.I.D. in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by A.I.D. prior to execution.

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 AID Geographic Code 935 as in effect at the time of shipment, or (2) on an ocean vessel which AID, by written notice to the Cooperating Country, has designated as ineligible; or (3) under an ocean or air charter which has not received prior AID 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 Section C.1.(a) without prior written AID approval; or (2) an ocean vessel which AID., 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 AID approval.

(c) Unless AID 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 AID 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 AID 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 AID 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 are 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 AID-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 AID 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 AID 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 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 AID Geographic Code 935 as in effect at the time of the replacement, and, except, as the Parties may agree in writing, will be otherwise subject to the provisions of the Agreement. To the extent the Cooperating Country does not insure or cause to be insured goods financed under the Assistance imported for the Project, the Cooperating Country will assure that funds for any necessary repair or replacement will be available in the currency in which such goods were financed or in any freely convertible currency.

SECTION C.8. U.S. Government-owned Excess Property. The Cooperating Country agrees that, wherever practicable, United States Government-owned excess personal property, in lieu of new items financed under the Assistance, should be utilized. Funds under the Assistance may be used to finance the costs of obtaining such property for the Project.

Article D. Termination; Remedies

SECTION D.1. Cancellation by Cooperating Country. The Cooperating Country may, by giving AID 30 days written notice, cancel any part of the

Assistance 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 instalment 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 instalment of Principal or other payment required under any other loan, guaranty or other agreement between the Cooperating Country or any of its agencies and AID or any of its predecessor agencies. If an Event of Default shall have occurred, then AID 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 the 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 AID 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 AID would be in violation of the legislation governing AID; or

(d) The Cooperating Country shall have failed to pay when due any interest, instalment or 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 document or to make disbursement other than under existing ones; and
- (3) at AID's expense, direct that title to goods financed under the Assistance be transferred to AID if the goods are from a source outside the Cooperating Country, are in a deliverable state and have not been offloaded in ports of entry of the Cooperating Country. Any disbursement made under the Loan with respect to such transferred goods will be deducted from Principal.

SECTION D.4. Cancellation by AID. 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, AID 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, provided, that any obligations arising out of the expenditure of Grant funds will not be extinguished by such payment of principal and interest.

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, AID, 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 AID within sixty (60) 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, AID 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 AID within sixty (60) 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 AID 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 (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, (i) if derived from Loan funds, will be applied to the instalments of Principal in the inverse order 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 AID to the Cooperating Country under this Agreement prior to the authorized use of such funds for the Project will be returned to AID 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 AID 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 AID financed in whole or in part out of funds granted by AID under this Agreement.