

PO-PA 11376 8
ISN = 47336

Executed.

AGREEMENT

Between

ABU DHABI

INTERNATIONAL BANK INC.

and the

UNITED STATES OF AMERICA

Acting through the

AGENCY FOR INTERNATIONAL DEVELOPMENT

Date: September 30, 1983

Project No. 940-0002.23

Loan No. 281-W-001

TABLE OF CONTENTS

ARTICLE 1:	The Project:	
	Section 1.01.	Definition of project.....1
	Section 1.02.	Eligible Sub-Borrowers.....2
	Section 1.03.	Local Currency Costs.....2
	Section 1.04.	Source and Origin or Nationality.....3
ARTICLE 2:	The Co-Financing:	
	Section 2.01.	The Bank Loans.....3
	Section 2.02.	The A.I.D. Loan.....3
	Section 2.03.	Co-Financing Arrangement.....3
	Section 2.04.	Financial Terms of the A.I.D. Loan....4
	Section 2.05.	Other Terms of the A.I.D. Loan.....5
ARTICLE 3:	Conditions Precedent to Disbursement:	
	Section 3.01.	Conditions Precedent to Initial Disbursement.....13
	Section 3.02.	Terminal Date for Conditions Precedent to Initial Disbursement....14
	Section 3.03.	Conditions Precedent to Subsequent Disbursements.....14
ARTICLE 4:	Covenants:	
	Section 4.01.	Other Loans to Eligible Sub-Borrowers.14
	Section 4.02.	Due Diligence.....14
	Section 4.03.	Reports.....15
	Section 4.04.	Waivers.....15
	Section 4.05.	Default under the Bank Loans.....15
	Section 4.06.	Completeness of Information.....16
ARTICLE 5:	Disbursements:	
	Section 5.01.	Disbursement Mechanism.....16
	Section 5.02.	Other Forms of Disbursement.....16
	Section 5.03.	Date of Disbursement.....17
ARTICLE 6:	Termination; Remedies:	
	Section 6.01.	Cancellation by the Bank.....17
	Section 6.02.	Termination on Full Payment.....17
	Section 6.03.	Events of Default.....17
	Section 6.04.	Suspension; Acceleration.....17
	Section 6.05.	Cancellation by A.I.D.....18
	Section 6.06.	Continued Effectiveness of Agreement.....18
	Section 6.07.	Refunds.....18
	Section 6.08.	Nonwaiver of Remedies.....19

ARTICLE 7: General and Miscellaneous:

Section 7.01.	Consultation.....	19
Section 7.02.	Evaluation.....	19
Section 7.03.	Records, Inspections, Audit.....	19
Section 7.04.	United States Goods and Services.....	19
Section 7.05.	Non-Assignability.....	20
Section 7.06.	Governing Law.....	20
Section 7.07.	Communications.....	20
Section 7.08.	Representatives.....	20
Section 7.09.	Project Implementation Letters.....	21
Section 7.10.	Jurisdiction.....	21
Section 7.11.	Savings Clause.....	21
Section 7.12.	Amplified Description of the Project..	21

ANNEXES

- A - Project Description
- B - Request and Certificate

11

Agreement

Agreement, dated as of September 30, 1983, between Abu Dhabi International Bank Inc. (the "Bank") and the United States of America, acting through the Agency for International Development ("A.I.D.").

WHEREAS, A.I.D. wishes to participate in loans for rural, private sector and primarily agroindustry sub-projects in Indonesia, Jordan, Morocco, Pakistan, Sudan, Thailand and Tunisia through a co-financing arrangement with the Bank and a United States Commercial Bank ("USCB"); and

WHEREAS, the Bank is willing to arrange and participate in said loans, subject to the terms hereof, upon the condition that A.I.D. participates in said loans.

NOW THEREFORE, the Parties hereto agree as follows:

Article 1: The Project

Section 1.01. Definition of Project. The Project, which is further described in Annex A, will consist of a co-financing arrangement among the Bank, A.I.D. and USCB for sub-projects which 1) involve U.S.-foreign joint ventures that are substantially owned by citizens of the country in which the particular sub-project will be executed and 2) provide for outreach programs to the small enterprise sector. Sub-projects may be financed in Indonesia, Jordan, Morocco, Pakistan, Sudan, Thailand, Tunisia and other countries which may be agreed upon ("Eligible Countries") among the Bank, A.I.D. and USCB. The Project is expected to foster the productive utilization of resources of Eligible Countries, to improve the foreign exchange account of such countries, to introduce new technologies and to generate direct and indirect employment. A.I.D.'s contribution to the Project will consist of up to Two Million Five Hundred Thousand United States ("U.S.") Dollars (\$2,500,000) in loan funds, and the Bank's contribution will consist of up to Two Million Five Hundred Thousand U.S. Dollars (\$2,500,000) in loan funds. The Parties anticipate that USCB will also contribute Two Million Five Hundred Thousand U.S. Dollars (\$2,500,000) in loan funds. The total cost of the Project is estimated at approximately Seven Million Five Hundred Thousand U.S. Dollars (\$7,500,000).

Within the limits of the above definition of the Project, elements of the amplified description stated in Annex A may be changed by written agreement of the authorized representatives of the Parties as provided in Section 7.08, without formal amendment of this Agreement.

Section 1.02. Eligible Sub-Borrowers. Sub-Borrowers eligible for receiving loans from the Bank under the Project ("Eligible Sub-Borrowers") are limited to: 1) companies organized in the Eligible Country where the sub-project will be executed which are substantially owned by citizens of such countries, or 2) joint ventures between U.S. entities and foreign entities organized in the Eligible Country where the sub-project will be executed and which joint ventures are substantially owned by citizens of such Eligible Country. Activities of the Eligible Sub-Borrowers financed by the Project are limited to those: undertaken in an Eligible Country; relating to the agribusiness or health sector; including an outreach program to small enterprises; and providing for technology transfer.

Section 1.03. Local Currency Costs. Except as A.I.D. may otherwise agree in writing, "Local Currency Costs" are defined as the costs of goods and services indigenous to the Eligible Country where the Eligible Sub-Borrower will conduct its activities under the Project. Indigenous goods are defined as those goods that have been mined, grown, or produced in such country. If the locally produced goods contain imported components, to fit within this definition, a commercially new recognized commodity must result that is substantially different in basic characteristics or in purpose or utility from its components. Locally produced goods containing imported components from non-free world sources are excluded from this definition. Indigenous services are those performed by citizens of the Eligible Country where the affected sub-project will be executed or firms organized under the laws of the Eligible Country, and whose principal place of business is such Eligible Country, and for suppliers of services only with at least fifty percent (50%) ownership by persons with citizenship of such Eligible Country; except that, construction services may be financed as a Local Currency Cost if the construction firm is "an integral part of the Eligible Country's economy," defined as follows: (a) it has done business in the Eligible Country on a continuing basis for at least three (3) years; (b) it is capable of undertaking the services required; (c) all, or substantially all, of its directors of local operations, senior staff and operating personnel are residents in the Eligible Country; and (d) most of its operating equipment and physical plant are in the Eligible Country.

Local Currency Costs are also defined to include imported shelf items, which are goods that are normally imported and kept in stock, in the form in which imported, for sale to meet a general demand in the Eligible Country for the item and not goods which have been specifically imported for use in the sub-project. Any imported component from a non-free world country makes an item ineligible for financing as a Local Currency Cost. Imported shelf items may be mined, grown or produced in any country included in A.I.D. Geographic Code 941. Up to a maximum amount of the equivalent of \$250,000 of imported shelf items whose unit cost does not exceed \$5,000 may be mined, grown or produced in any country included in A.I.D. Geographic Code 899.

Section 1.04. Source and Origin or Nationality. "Source" means the country from which a good is shipped, and "origin" is the country in which a good is produced. "Nationality" for an individual means the country of citizenship and country of principal place of business, and for a firm means country of incorporation or legal organization, country of principal place of business and country of citizenship of owners of more than fifty percent (50%) of each class of stock.

Article 2: The Co-Financing

Section 2.01. The Bank Loans. The Bank agrees to lend to Eligible Sub-Borrowers the sum of up to Seven Million Five Hundred Thousand U.S. Dollars (\$7,500,000) for the Project repayable within seven (7) years from the date of execution of loan agreements between the Bank and such Eligible Sub-Borrowers (the "Bank Loans"). The Bank Loans will bear interest at the rate not less than twelve percent (12%) per annum, unless mutually agreed in writing, and will include provisions substantially similar to those listed in Article 3 below. The Bank will enter into the Bank Loans under the Project within three (3) years from the date of this Agreement. In consideration for managing the A.I.D. Loan (defined in Section 2.02) pursuant to this Agreement, the Bank will be compensated through commitment fees, interest and other fees received from Eligible Sub-Borrowers in excess of sums owed or to be remitted to A.I.D. as provided herein.

Section 2.02. The A.I.D. Loan. A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended, agrees to participate in the Bank Loans, subject to the terms of this Agreement, in an amount not to exceed Two Million Five Hundred Thousand U.S. Dollars (\$2,500,000) in loan funds (the "A.I.D. Loan"). The aggregate amount of disbursements under the A.I.D. Loan is referred to as the A.I.D. Principal ("A.I.D. Principal"). The A.I.D. Loan may be used to finance a portion of the Bank Loans to Eligible Sub-Borrowers, as described below, and shall be attributed to the Local Currency Costs of such Bank Loans. Except as A.I.D. may otherwise agree in writing, disbursements from A.I.D. for the A.I.D. Loan will be available for up to three (3) years from the date of this Agreement.

Section 2.03. Co-financing Arrangement. In order to undertake the joint Bank-A.I.D.-USCB co-financing arrangement, the Bank will, through the Bank Loans, on-lend to Eligible Sub-Borrowers the A.I.D. Loan, which will constitute a portion of the Bank Loans. A.I.D.'s approval in writing is required before the A.I.D. Loan may be utilized to finance a Bank Loan under the Project. It is agreed that the Bank will remit the Eligible Sub-Borrowers' payments under the Bank Loans to A.I.D. according to the financial terms outlined in Section 2.04 below. The Bank shall make such payments within three (3) business days after the receipt thereof from the Eligible Sub-Borrowers. A.I.D. will assume the credit risk for repayment of the A.I.D. Principal, interest and fees under the Bank Loans for each Bank Loan, on a pro rata basis equivalent to the proportion the amounts outstanding under the A.I.D. Loan bear to the amounts

outstanding under the Bank Loan. The Bank will be responsible for administering the Bank Loans, including, but not limited to: making disbursements to the Eligible Sub-Borrowers; collecting payments from the Eligible Sub-Borrowers of principal, interest and fees; and receiving and reviewing reports submitted by the Eligible Sub-Borrowers. It is understood that the funds provided by A.I.D. under the Agreement will be used in connection with loans made by the Bank to Eligible Sub-Borrowers and that A.I.D. will only look to payment from the Bank to the extent that the Bank receives payment from Eligible Sub-Borrowers; payment from Eligible Sub-Borrowers will be divided pro rata between A.I.D. and the Bank as provided herein.

Section 2.04. Financial Terms of the A.I.D. Loan.

(a) Interest. A.I.D. will receive from the Bank interest which will accrue at the rate of ten percent (10%) per annum on the outstanding balance of A.I.D. Principal and on any due and unpaid interest accruing and fees under the A.I.D. Loan to the extent that Eligible Sub-Borrowers make payments to the Bank according to the terms of the Bank Loans. Interest on the outstanding balance will accrue from the date (as described in Section 5.03) of each respective disbursement. The first payment of interest will be due and payable six (6) months after the first disbursement hereunder. Thereafter, interest shall be calculated and paid on each successive semi-annual anniversary. In the event of default, and if the final payment is not made when due, interest shall accrue thereafter at ten percent (10%) per annum, but the Bank shall not be deemed in default to A.I.D. to the extent the Eligible Sub-Borrowers are in default on their Bank Loans.

(b) Repayment of Principal. A.I.D. will receive from the Bank the Principal within seven (7) years from the date of the first disbursement of the A.I.D. Loan in eleven (11) approximately equal semi-annual installments of A.I.D. Principal and interest provided that Sub-Borrowers comply with the terms of the Bank Loans. The first installment of A.I.D. Principal will be payable within one and one-half (1 1/2) years after the date on which the first interest payment is due in accordance with sub-section (a) above.

(c) Fees. A.I.D. will receive from the Bank fees charged to the Eligible Sub-Borrowers under the Bank Loans (including but not limited to, commitment fees and prepayment penalties) on a pro rata basis equivalent to the proportion the amounts outstanding under the A.I.D. Loan bear to the amounts outstanding under each of the Bank Loans, to the extent that such fees are paid.

(d) Application, Currency, and Place of Payment. All payments of interest, A.I.D. Principal and fees hereunder will be made in U.S. Dollars and will be applied first to the payment of interest due, then to the payment of the fees (if any) due and owing, and finally to the repayment of A.I.D. Principal. Except as A.I.D. may otherwise specify in writing, payments will be made to the Cashier, 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 or by electronic fund transfer to the Federal Reserve Bank of New York by specifying a Credit to U.S. Treasury, New York City, A.I.D. Agency Location Code 72000001, A.I.D. Loan Number 281-W-001, in payment on the referenced Loan.

(e) Late Charges. In the event of late payment of amounts due A.I.D. under sub-sections (a) or (b) above, or any sums due A.I.D. by way of refunds under Section 6.07, a late payment charge will accrue on the unpaid installment. This late payment charge on the unpaid installment will accrue to A.I.D. on a semi-annual basis at the interest rate of the A.I.D. Loan and will be calculated from the date it was due to the date it was received by A.I.D. Late payment charges will be computed as if each year consisted of three hundred sixty-five (365) days. Funds become due to A.I.D. to the extent funds are remitted to the Bank by the Eligible Sub-Borrowers.

Section 2.05. Other Terms of the A.I.D. Loan. The Bank agrees that the following terms and conditions will be included in the Bank Loan agreements between the Bank and Eligible Sub-Borrowers, except as the Bank and A.I.D. may otherwise agree in writing:

(a) Definition of Terms

- (i) "Eligible Costs" - Except as the parties may otherwise agree in writing, Eligible Costs are local currency costs. Local currency costs are the cost of goods and services indigenous to the country where the sub-project will be executed (e.g., Indonesia, Jordan). Indigenous goods are defined as those goods that have been mined, grown or produced in such country. If the locally produced goods contain imported components, to fit within this definition, a commercially recognized new commodity must result that is substantially different in basic characteristics or in purpose or

utility from its components. Locally produced goods containing imported components from non-free world sources are excluded from this definition. Indigenous services are those performed by citizens of the country where the affected sub-project will be executed or firms with at least fifty percent (50%) ownership by persons with citizenship of the country where the affected sub-project will be executed.

(ii) "Source and Origin or Nationality" - Source means the country from which a good is shipped and origin is the country in which a good is produced. Nationality for an individual means the country of citizenship and country of principal place of business, and for a firm means country of incorporation or legal organization, country of principal place of business and country of citizenship of owners of more than fifty percent (50%) of each class of stock.

(iii) "Motor Vehicles" - Motor vehicles are defined as self-propelled vehicles with passenger carriage capacity such as highway trucks, passenger cars and buses, motorcycles, scooters, motorized bicycles and utility vehicles. Excluded from this definition are industrial vehicles for materials handling and earth moving such as lift trucks, tractors, graders, scrapers, and off-the-highway trucks.

(b) USE OF PROCEEDS. Each Eligible Sub-Borrower shall covenant that not less than the amount of actual A.I.D. participation in the relevant Bank Loan will be used exclusively to finance Eligible Costs as more fully defined in subsection (a)(i) above. No portion of the A.I.D. Loan shall be used to finance motor vehicles that are not of U.S. source and origin.

(c) Conditions Precedent to Initial Disbursement. As conditions precedent to the initial disbursement to each Eligible Sub-Borrower of each Bank Loan, the Eligible Sub-Borrower shall furnish to the Bank, in form and substance satisfactory to the Bank:

(i) a copy of its articles of incorporation (or equivalent);

- (ii) a certified copy of a resolution of the board of directors (or equivalent) of the Eligible Sub-Borrower approving the execution of the Bank Loan and authorizing such Sub-Borrower's officers to execute the same;
- (iii) evidence that the Eligible Sub-Borrower has received and has access to adequate paid-in capital;
- (iv) a copy of a cost overrun agreement (or equivalent), if necessary, among the shareholders of the Eligible Sub-Borrower pursuant to which they irrevocably commit themselves to commit additional equity, or loans subordinate to the Bank Loan, as may be necessary to meet cost overruns in the construction and initial operations of the Eligible Sub-Borrower;
- (v) a copy of the Eligible Sub-Borrower's duly executed lease agreement(s), if appropriate;
- (vi) an opinion of counsel that the Eligible Sub-Borrower is a duly existing and qualified company under the laws of the country where the sub-project will be executed, that the Bank Loan agreement has been duly authorized and executed on behalf of the Eligible Sub-Borrower, that it constitutes a valid and legally binding obligation of the Eligible Sub-Borrower in accordance with all its terms, that the Eligible Sub-Borrower is registered or qualified to do business in the jurisdictions in which it operates and holds all licenses, permits or other governmental consents necessary to enable it to undertake the business which is the subject of the Bank Loan, that the Eligible Sub-Borrower is in compliance with applicable environmental laws and regulations, that the lease (if any) as referred to in subsection (v) of this section is valid and binding, that the Eligible Sub-Borrower is not in default of any of its obligations under the Bank Loan, that there are no claims (whether actual, contingent or otherwise) outstanding

against the Eligible Sub-Borrower, or listing those which do exist, and that the security agreement described under subsection (h) of this section will, if duly delivered and filed, establish a valid security agreement as contemplated in subsection (h);

- (vii) a current financial statement of the Eligible Sub-Borrower accurate as of the close of the Eligible Sub-Borrower's last fiscal year preceding the date of initial disbursement under the Bank Loan together with a monthly financial statement of the Eligible Sub-Borrower current as of the end of the calendar month preceding the Eligible Sub-Borrower's request of initial disbursement; and
- (viii) perfected security documents as required under subsection (h).

(d) Conditions Precedent to Subsequent Disbursements. As conditions precedent to subsequent disbursements to each Eligible Sub-Borrower of the Bank Loans, such Sub-Borrower shall furnish to the Bank, in form and substance satisfactory to the Bank:

- (i) a certification that the documents described in subsections (i), (iv), (v), (vi) and (viii) of subsection (c) of this section continue to be in effect and have not been materially revised;
- (ii) current financial statements such as those described in subsection (vii) of subsection (c) of this section; and
- (iii) a representation by the Eligible Sub-Borrower that there has been no material adverse change in the financial condition of the Eligible Sub-Borrower since the date of the Bank Loan agreement.

(e) Financial Reports. Each Eligible Sub-Borrower shall agree to maintain complete and accurate financial books and records in accordance with generally accepted accounting standards, adequate to show the receipt and use of goods and services under the Bank Loan. Such books and records

will be audited regularly, in accordance with generally accepted accounting standards, and maintained, except as the Bank may otherwise agree in writing until the Bank Loan has been fully repaid by the Eligible Sub-Borrower. The Bank shall require, at a minimum, that the Eligible Sub-Borrower submit the following reports within sixty (60) days after the end of its fiscal year:

- its annual report;
- its audited financial statement, including an income (profit and loss) statement, balance sheet, and sources and application of funds statement calculated in a manner consistent with the prior year, audited in accordance with generally acceptable accounting standards with any management letters from the accountant;
- a declaration signed by a principal officer of the Eligible Sub-Borrower that management knows of no material liability, contingent liability, or claims against the Eligible Sub-Borrower not reflected in the audited financial statement, or setting forth such liability, contingent liability or claim; and
- a statement signed by a principal officer of the Eligible Sub-Borrower that it knows of no breach of the Bank Loan agreement and of no material change in its financial statement since the end of the prior fiscal year.

In addition, the Eligible Sub-Borrower will promptly provide the Bank with copies of financial reports, financial statements, audit reports prepared for the lenders or prospective lenders, shareholders or governmental agencies.

(f) Financial Controls. The Bank shall incorporate the following financial controls into the Bank Loan agreement:

- (i) Dividend Limitation. During the term of the Bank Loan agreement, without prior written consent by the Bank, the Eligible Sub-Borrower will not issue any dividends or capital redemptions. The Bank will not unreasonably withhold its consent, but in determining whether to consent to dividend

or capital distribution the Bank may require that there be reasonable reserves for future payments such that the Bank need not deem itself insecure.

- (ii) Salary Limitations. During the term of the Bank Loan agreement, the Eligible Sub-Borrower agrees that it will not increase salary or other compensation paid to any stockholder, spouse or immediate family member of any stockholder more than ten percent (10%) in any calendar year without the prior written consent of the Bank.
- (iii) Equity Investments and Loans. Without the prior written consent of the Bank, no Eligible Sub-Borrower will make an equity investment or loan exceeding \$100,000, including in any affiliated or subsidiary company, nor shall it guarantee obligations of any other person or company.
- (v) Merger and Consolidation. Without the prior written consent of the Bank, no Eligible Sub-Borrower will enter into any merger, consolidation, reorganization, recapitalization or reclassification of its capital stock nor shall it sell, transfer, lease or otherwise dispose of all or any material part of its assets.
- (vi) Relations with Affiliates. No Eligible Sub-Borrower will enter into any contract with any affiliate, including any company owned in part by any of the shareholders of the Eligible Sub-Borrower, except at arm's length, and it shall not prepay any affiliate for goods or services. All goods and services purchased by each Eligible Sub-Borrower shall be purchased on a competitive basis in accordance with sound business practices.
- (g) Insurance. The Bank shall require that each Eligible Sub-Borrower maintain with an insurance company acceptable to the Bank, insurance on its plant, building and equipment against fire, flood, earthquakes and other perils conventionally covered under an "all risks" policy, in an

amount adequate to protect the Bank and A.I.D., and shall cause said policies to name the Bank as additional loss payee. Such policies shall provide that they shall not be subject to cancellation without thirty (30) days notice to the Bank. Annually, each Eligible Sub-Borrower shall provide to the Bank certificates of insurance showing coverage in force.

(h) Security. The Bank shall require that each Eligible Sub-Borrower grant to it a security interest in:

- its plant, equipment and inventory, including spare parts, accessories and improvements;
- its accounts receivable and contract rights; and
- its leasehold interest in the property upon which its business is to be conducted, if appropriate, together with all proceeds of said property to secure payment and performance of all indebtedness and obligations of debtor to secured party presently existing in and hereafter arising, direct or indirect, and interest thereon. The Bank shall also require that each Eligible Sub-Borrower take all steps which may be required and execute all documents which may be necessary, to perfect this security interest under the laws of the relevant Eligible Country and local governmental areas where perfection may be required.

(i) Specific Restrictions. Each Eligible Sub-Borrower shall covenant that no portion of the A.I.D. Loan shall be used, unless the Bank agrees in writing, to finance activities involving the production, processing or marketing of sugar, palm oil, cotton or citrus, in whole or in part, for export; or to finance the manufacture, importation, distribution or application of pesticides; or to finance luxury goods or gambling equipment, police, other law enforcement or military activities, materials for explosives, surveillance equipment, abortion equipment and services or weather modification equipment.

(j) Publicity. Each Eligible Sub-Borrower shall covenant that it will display on sub-project premises in an appropriate public area a notice stating, in effect: "Funding for this project has been provided through the cooperation of the Abu Dhabi International Bank, Inc. and the United States Agency for International Development." If requested by the Bank or A.I.D., each Eligible Sub-Borrower will cooperate in appropriate, reasonable publicity in connection with the Project.

(k) Execution of Project. Each Eligible Sub-Borrower shall covenant: to carry out its sub-project with due diligence and efficiency, in conformity with sound technical, financial and management practices; to provide qualified and experienced management for, and train such staff as may be appropriate, for the maintenance and operation of its sub-project; and, as applicable for continuing activities, to cause the sub-project to be operated and maintained in such manner as to assure the continuing and successful achievement of the purposes of the sub-project.

(l) Taxation. Each Eligible Sub-Borrower shall covenant that no funds made available under the A.I.D. Loan shall be used for the payment of any taxes, tariffs, duties or other levies imposed on the Eligible Sub-Borrower.

(m) Project Evaluation. Each Eligible Sub-Borrower shall agree to cooperate with the Bank and A.I.D. on an A.I.D.-conducted evaluation program as part of the Project. The program may include, during the implementation of the Project and at one or more points thereafter: evaluation of progress toward attainment of the objectives of the Project; identification and evaluation of problem areas or constraints which may inhibit such attainment; assessment of how such information may be used to help overcome such problems; and evaluation of the overall development impact of the Project. A.I.D. shall bear its costs involved in such evaluation.

(n) Inspections and Audit. Each Eligible Sub-Borrower shall agree to afford authorized representatives of the Bank or A.I.D. the opportunity at all reasonable times to inspect its books, records and other documents relating to the Project to verify that Project funds are being used in accordance with the terms and conditions of the Bank Loan agreement and this Agreement.

(o) Completeness of Information. Each Eligible Sub-Borrower shall confirm: that the facts and circumstances of which it has informed the Bank or A.I.D., or caused the Bank or A.I.D. to be informed, in the course of reaching agreement with the Bank on the Bank Loan are accurate and complete and include all the facts and circumstances that might materially affect the Project and the discharge of responsibilities under the Bank Loan agreement; and that it will inform the Bank in a timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the sub-project or the discharge of responsibilities under the Bank Loan agreement.

(p) Default. The Bank and each Eligible Sub-Borrower shall agree that the following terms, but not only such terms, shall be included in the Bank Loan agreement as events of default: non-payment by the Eligible Sub-Borrower when due of any payment of interest, principal or fee; failure by the Eligible Sub-Borrower to comply with the terms of subsections (a) through (o) of this section; non-payment by the Eligible Sub-Borrower when due of any payment due to any other lender by it; or, occurrence of an event that the Bank determines to be an extraordinary situation that makes it improbable either that the purpose of the Bank Loan will be attained or that the Eligible Sub-Borrower will be able to perform its obligations under the Bank Loan agreement.

Article 3: Conditions Precedent to Disbursement

Section 3.01. Conditions Precedent to Initial Disbursement. Prior to the first disbursement under this Agreement for the A.I.D. Loan, under the provisions of this section and Article 5, or prior to the issuance by A.I.D. of documentation pursuant to which such disbursement will be made, the Bank shall, except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

(a) evidence that the Bank has entered into a co-financing arrangement with a USCB for the Project pursuant to which the responsibilities described in Section 2.03 are allocated between the Bank and the USCB, and that the USCB has agreed to participate in the Project by committing Two Million Five Hundred Thousand U.S. Dollars (\$2,500,000) in loan funds; (it shall be the responsibility of A.I.D. to identify the aforementioned USCB, subject to the approval of the Bank);

(b) an opinion of counsel that this Agreement has been duly authorized and/or ratified by and executed on behalf of the Bank; that it constitutes a valid and legally binding obligation of the Bank in accordance with all its terms; and that the Bank and its counsel know of no U.S. banking regulations, laws and governmental approvals applicable to this Agreement that have not been complied with;

(c) a statement of the name of the person holding or acting in the office of the Bank specified in Section 7.07 and of any additional representatives of the Bank, together with a specimen signature of each person specified in such statement;

(d) a copy of the Bank Loan agreement(s) to which the first disbursement will be applied; and

(e) evidence that all of the conditions precedent to initial disbursement under the relevant Bank Loan agreement(s), including those described in Section 2.05(c) of this Agreement, have been met.

Section 3.02. Terminal Date for Conditions Precedent to Initial Disbursement. If all of the conditions specified in Section 3.01 have not been met within 240 days from the date of this Agreement, or such later date as the parties may agree to in writing, A.I.D., at its option, may terminate this Agreement by written notice to the Bank.

Section 3.03. Conditions Precedent to Subsequent Disbursements. Prior to subsequent disbursements under this Agreement for the A.I.D. Loan, under the provisions of this section and Article 5, or to the issuance by A.I.D. of documentation pursuant to which such disbursements will be made, the Bank shall; except as A.I.D. may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

(a) evidence that all of the conditions precedent to subsequent disbursements under the relevant Bank Loan agreement including those described in Section 2.05(d) of this Agreement, have been met;

(b) a copy of the Bank Loan agreement to which the disbursement will be applied, when it will be the first disbursement to the Eligible Sub-Borrower; and

(c) evidence that all of the terms and conditions described in Section 2.05 of this Agreement remain a part of the Bank Loan agreement(s).

Article 4: Covenants

Section 4.01. Other Loans to Eligible Sub-Borrowers. In the event the Bank makes a loan or loans in addition to the Bank Loan to an Eligible Sub-Borrower, the Bank agrees that any payment received from that Eligible Sub-Borrower or any funds received from realization upon security or insurance provided under the Bank Loan agreement shall be applied first to any payment of interest or principal which is due or past due before any application to any other loan.

Section 4.02. Due Diligence. The Bank covenants that it shall use the same degree of care with respect to the Bank Loans that it uses in respect of its own loans and consistent with standard banking practices to enforce its rights to receive payments of principal, interest and fees under the Bank Loans and shall promptly apply all such receipts to the payments of principal, interest and fees payable to A.I.D. as specified above.

Section 4.03. Reports. The Bank shall make available to A.I.D. within a reasonable time after receipt copies of any and all reports, financial statements or other documents relating to the Eligible Sub-Borrower and its financial condition which may be made available to the Bank.

Section 4.04. Waivers. The Bank covenants that it will not, without the prior consent of A.I.D., waive any significant condition contained in the Bank Loan agreements (including, but not limited to those contained in Section 2.05 of this Agreement) nor shall it without the written consent of A.I.D., waive payment of or grant an extension of any payment due under the Bank Loan agreements.

Section 4.05 Default under the Bank Loans. The Bank covenants:

(a) Consultation. In the event of default under a Bank Loan, the Bank shall advise A.I.D. of the occurrence of any such event of default within no less than fifteen (15) days of such event, shall consult with A.I.D. on the course of action which the Bank intends to pursue with respect to such event of default, and shall wait at least thirty (30) days prior to declaring the Bank Loan in default, unless A.I.D. otherwise agrees.

(b) Non-Payment. If the event of default is for non-payment of the principal or, or interest on, the Bank Loan, the Bank may at its discretion, and shall at the written request of A.I.D., declare the outstanding principal amount of said Bank Loan, together with all accrued interest and any other amounts payable, to be immediately due and payable and shall make demand on the Eligible Sub-Borrower for payment thereof and shall pursue collection efforts on a commercially reasonable basis.

(c) Collection Expenses. In the event payments are made to third parties such as attorneys, or others, in connection with the collection of any portion of the principal and interest on the Bank Loans, such expenses shall be borne equally by all parties hereto, except that A.I.D. shall only owe its share out of any funds due A.I.D. under this Agreement.

(d) Post-default Actions. The Bank will use its best efforts to sell any secured plant, equipment, inventory or other items within six (6) months after an event of default by an Eligible Sub-Borrower. The Bank will be responsible for taking all actions necessary to foreclose on its security interest, including repossessing, warehousing,

transporting and selling plant and equipment. All such expenses as well as all such recoveries would be shared by the Bank and A.I.D. on a pro rata basis.

Section 4.06. Completeness of Information. The Bank confirms that:

(a) based on the best available knowledge of the Bank 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 this Agreement and the Bank Loans 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) it will inform A.I.D. in a timely fashion of any subsequent facts and circumstances which come to its attention that might materially affect, or that it is reasonable to believe might so affect, the Project or the discharge of responsibilities under this Agreement.

Article 5: Disbursements

Section 5.01. Disbursement Mechanism. After satisfaction of conditions precedent as set forth in Section 3.01, the Bank may obtain disbursement of funds under the A.I.D. Loan by requesting A.I.D. to issue a Letter of Commitment to the Bank committing A.I.D. to reimburse the Bank for payments made by it to Eligible Sub-Borrowers under the Bank Loans and, for each disbursement, by providing A.I.D. with a request and certificate ("Request and Certificate") in the form set forth in Annex B hereto, requesting a specific dollar amount for disbursement and certifying that the Bank has complied with the conditions precedent to initial disbursement set forth in Section 3.01 and that it is in compliance with all the covenants and other terms and conditions of this Agreement, including Annex A. In each such Request and Certificate submitted following the initial disbursement, the Bank shall request a specific dollar amount for disbursement and certify that it has complied with the conditions precedent to subsequent disbursements set forth in Section 3.03 and that it is in compliance with all the covenants and terms and conditions of this Agreement, including Annex A.

Section 5.02. Other Forms of Disbursement. Disbursements of the A.I.D. Loan may also be made through such other means as the Parties may agree to in writing.

Section 5.03. Date of Disbursement. Disbursements by A.I.D. will be deemed to occur on the date on which A.I.D. makes a disbursement to the Bank pursuant to a Letter of Commitment.

Article 6: Termination; Remedies

Section 6.01. Cancellation by the Bank. The Bank may, by giving A.I.D. thirty (30) days written notice, for any reason or no reason, cancel any part of the A.I.D. Loan which has not been disbursed and shall be relieved of any obligation to commit future funding to the Project. Any fees applicable to the undisbursed amount pursuant to Section 2.04 shall be calculated to the date of cancellation, which is thirty (30) days after A.I.D. has received written notice of cancellation from the Bank.

Section 6.02. Termination on Full Payment. Upon payment in full to A.I.D. of the A.I.D. Principal and any accrued interest and fees, this Agreement and all obligations of the Bank and A.I.D. under it will cease.

Section 6.03. Events of Default. It will be an "Event of Default" if the Bank shall have failed:

- (a) to pay when due any interest, fee or installment of A.I.D. Principal required under this Agreement, provided that payments to A.I.D. become due from the Bank to the extent that payments are received by the Bank from Sub-Borrowers; or
- (b) to comply with any other provision of this Agreement including Annex A; 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 Bank and A.I.D. or any of its predecessor agencies; or
- (d) to meet any of its material financial obligations under the terms and conditions of loan agreements with any of its other lenders.

Section 6.04. Suspension; Acceleration.

- (a) If at any time:
 - (i) an Event of Default has occurred; or
 - (ii) an event occurs that A.I.D. determines to be an extraordinary situation that makes it improbable either that the purpose of the A.I.D. Loan will be attained or that the Bank will be able to perform its obligations under this Agreement; or

- (iii) any disbursement by A.I.D. would be in violation of the legislation governing A.I.D.;
- (b) Then A.I.D. may:
- (i) Cancel the A.I.D. loan to the extent that sums have not been disbursed; or suspend temporarily disbursements under the A.I.D. Loan pending a cure by the Bank; and/or
 - (ii) If an event specified in Section 6.04(a)(i) has occurred, declare, by notice to the Bank, its intention to declare a Default according to Section 6.04(b)(iii) below, unless such Event of Default is cured within ten (10) days; and/or
 - (iii) If an event specified in Section 6.04(a)(i) has occurred, declare, by notice to the Bank, a Default, whereby, at A.I.D.'s option, all or any part of the A.I.D. Principal of, and all or any part of accrued fees and/or interest on the A.I.D. Loan forthwith without any further notice and without any presentment, demand or protest of any kind are due, all of which are expressly waived by the Bank.

Section 6.05. Cancellation by A.I.D. If, within sixty (60) days from the date of any suspension of the A.I.D. Loan pursuant to Section 6.04(b)(i), the cause or causes thereof have not been corrected, A.I.D. may cancel any part of the A.I.D. Loan that is not then disbursed.

Section 6.06. 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 A.I.D. Principal and accrued fees and interest hereunder.

Section 6.07. Refunds. In the case of any disbursement which is not supported by valid documentation in accordance with this Agreement, or which is not on-lent to the Eligible Sub-Borrowers 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 Bank 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 right to require such a refund of a disbursement will continue, notwithstanding any other provision of the Agreement, for the term of this Agreement. Any refund will be applied to the installments of A.I.D. Principal in the inverse order of their maturity.

Section 6.08. 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.

Article 7: General and Miscellaneous

Section 7.01. 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 and the Bank Loan agreement(s) and other matters relating to the Project. The Parties further agree to share information concerning the status of the Eligible Sub-Borrowers which may have a bearing on their ability to serve any of their debt obligations during the term of the Bank Loans.

Section 7.02. Evaluation. The Parties agree to cooperate on an A.I.D.-conducted evaluation program as part of the Project, as described in Section 2.05(m) of this Agreement. A.I.D. shall bear its costs involved in such evaluation.

Section 7.03. Records, Inspections, Audit.

The Bank will:

(a) maintain, or cause to be maintained, in accordance with generally accepted accounting principles and practices consistently applied, the Bank's books and records relating to the Project and to this Agreement. Such books and records will be audited regularly, in accordance with generally accepted accounting standards, and maintained except as A.I.D. may otherwise agree in writing until the Bank Loans have been fully repaid by the Eligible Sub-Borrowers and A.I.D. has been fully repaid under the A.I.D. Loan; and

(b) afford authorized representatives of A.I.D. the opportunity at all reasonable times to inspect the Bank's books, records and other documents relating to the Project and the Bank Loans to verify that Project funds are being used in accordance with the terms and conditions of this Agreement.

Section 7.04. United States Goods and Services. The parties intend that not less than Two Million Five Hundred Thousand U.S. Dollars (\$2,500,000) of goods and services with their origin in the United States will be financed under the Project, provided that sums so spent need not be an aliquot share of each Bank Loan.

Section 7.05. Non-Assignability. The Bank may not assign any of its rights or responsibilities under this Agreement to any party other than its affiliate, the National Bank of Abu Dhabi, without A.I.D.'s prior written approval.

Section 7.06. Governing Law. This Agreement shall be governed by the laws of the United States and the District of Columbia.

Section 7.07. 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, cable or telex, and will be deemed duly given or sent when delivered to such party at the following address:

To the Bank:

Mail Address: Abu Dhabi International Bank Inc.
1776 G Street, N.W.
Washington, D.C. 20006

To A.I.D.:

Mail Address: Office of Investment
Bureau for Private Enterprise
Agency for International Development
Department of State
Room 5893
Washington, D. C. 20523

Alternate address for telex: 904065

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 7.08. Representatives. For all purposes relevant to this Agreement, the Bank will be represented by the individuals who are duly authorized representatives of the Bank empowered to commit the Bank, and A.I.D. will be represented by the individual holding or acting in the Office of the Assistant Administrator, Bureau for Private Enterprise, each of whom, by written notice, may designate additional representatives for all purposes. The names of the representatives of the Bank, 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 7.09. Project Implementation Letters. To assist the Bank 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 A.

Section 7.10. Jurisdiction. The Bank consents to jurisdiction in the United States Federal District Court for the District of Columbia and agrees that, unless waived by A.I.D., any action brought to resolve any breach, default, dispute or interpretation of this Agreement shall be commenced in the United States District Court for the District of Columbia.

Section 7.11. Savings Clause. Notwithstanding Section 7.09, nothing shall limit the right of A.I.D. to serve legal process in any manner permitted by law or affect the right of A.I.D. to bring any action or proceeding against the Bank or its respective property, in any other court having jurisdiction.

Section 7.12. Amplified Description of the Project. An amplified description of the Project (Annex A) and a form of Request and Certificate (Annex B) are attached to and form part of this Agreement.

IN WITNESS WHEREOF, the Bank 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.

ABU DHABI INTERNATIONAL BANK INC.

UNITED STATES OF AMERICA

By: *Robert V. Hull*

By: *Peter Finn*

Title: *Senior Vice President* Title: _____

PROJECT DESCRIPTION

I. OBJECTIVES

The purpose of the Project is to partially capitalize a \$7,500,000 loan pool for lending to rural, private sector, primarily agroindustry sub-projects in Thailand, Indonesia, Pakistan, Sudan, Tunisia, Jordan, Morocco and other mutually agreed countries.

The Project is designed to help relieve major constraints on economic growth in certain A.I.D.-recipient countries. These include: (1) Weak Capital Markets. Capital markets are hamstrung by a shortage of capital for medium to long term productive investments. This is the variety of capital required to stimulate new businesses. (2) Shortage of Business Skills. These countries lack the critical mass of business skills required to realize the productive potential of their natural and human resources endowments. Missing is the management expertise to identify and implement business opportunities. (3) Limited Market Access. These countries suffer from a parochial marketing orientation--markets are local and, as a consequence, small with limited growth potential. Relief from these constraints will be prerequisite for realizing the developmental strategies of these countries. These strategies include: improvement of the level of technology in such high priority sectors as agribusiness, agroindustry and health; and promotion of export-oriented industrial development. To implement these strategies, Sudan, Pakistan, Tunisia, Jordan, Indonesia, Thailand, and Morocco similarly look to the private sector as central to the development process and have set industrial development policies specifically to encourage direct foreign investment, notably joint ventures.

The A.I.D. Loan will assist in the establishment of a loan pool for primarily agroindustry sub-projects. The loan pool responds directly to factors restraining economic growth in the target countries. This is accomplished through an integrated business development approach which mobilizes capital resources, U.S. technology and expertise, and ties business ventures to larger market opportunities. Some of the specific development impacts which will result include: (1) outreach programs to make U.S. technical assistance available to the small rural businessman; (2) employment generation; and (3) foreign exchange earnings.

II. IMPLEMENTATION

The loan pool will be capitalized by Abu Dhabi International Bank, Inc. (the "Bank") (\$2,500,000), a U.S. commercial bank ("USCB") (\$2,500,000) and by A.I.D. (\$2,500,000), and will be administered by the Bank, USCB and A.I.D. on a sub-project by sub-project basis. All sub-projects will involve: (1) U.S. joint ventures that are substantially owned by indigenous investors and/or have substantial capital imports from the U.S.; and (2) outreach programs to the small rural enterprise sector. The Bank will lend each Eligible Sub-Borrower at least \$1,000,000 unless mutually agreed under a Bank Loan agreement, the terms and conditions of which are subject to approval by A.I.D. and USCB. A.I.D. and USCB will participate in each sub-project loan for one-third of the total amount specified in the Bank Loan agreement. The Bank will be responsible for administrative aspects of each sub-project loan.

The interest rate for each sub-project will include both fixed and floating rate tranches. A.I.D. will offer its portion of the funds at a fixed rate of ten percent (10%) per annum through the participation arrangement with the Bank. The Bank will on-lend A.I.D. funds at a mutually agreed upon margin above the fixed rate on A.I.D. funds. USCB and the Bank will offer their pro rata shares of funds on a floating rate basis based on either the six-month London Interbank Offered Rate plus a margin, or the U.S. domestic prime rate plus a margin, at the Eligible Sub-Borrowers' option.

The proposed disbursement schedule for the drawdown of A.I.D.'s portion of loan pool funds is as follows: at least \$500,000 by June 1984; \$1,000,000 by January 1985; \$2,000,000 by January 1986; and \$2,500,000 by September 1986.

III. REPORTING

The Bank Loan agreements shall require each Eligible Sub-Borrower to maintain complete and accurate financial books and records in accordance with generally accepted accounting standards, adequate to show the receipt and use of goods and services under the Bank Loan. Such books and records will be audited regularly, in accordance with generally accepted accounting standards, and maintained, except as the Bank may otherwise agree in writing, until the Bank Loan has been fully repaid by the Eligible Sub-Borrower.

Moreover, the Bank shall make available to A.I.D. within a reasonable time after receipt copies of any and all reports, financial statements or other documents relating to the Eligible Sub-Borrower and its financial condition which may be made available to the Bank.

Finally, the Bank will maintain, or cause to be maintained, in accordance with generally accepted accounting principles and practices consistently applied, the Bank's books and records relating to the Project and this Agreement. The Bank will afford authorized representatives of A.I.D. the opportunity at all reasonable times to inspect the Bank's books, records and other documents relating to the Project and the Bank Loan to verify that Project funds are being used in accordance with the terms and conditions of this Agreement. The Bank Loan agreements shall provide that A.I.D. will have reasonable access to the Eligible Sub-Borrowers' books and records.

REQUEST AND CERTIFICATE

Under the terms of the Loan Agreement ("Agreement") between Abu Dhabi International Bank Inc., Netherlands Antilles Corporation (the "Bank"), and the United States of America acting through the Agency for International Development ("A.I.D."), dated September 1, 1983, the Bank hereby requests a disbursement for _____ under Letter of Commitment No. _____.

The Bank certifies that the amount requested for disbursement shall be used immediately (within no longer than 30 days) to procure or finance Eligible Costs as defined in Section 2.05(a)i of the Agreement for Eligible Sub-Borrowers in Eligible Countries as defined in Section 1.02 and Section 1.01 respectively. The Bank also certifies it has complied with applicable Conditions Precedent to Disbursement set forth in Article 3, and, with specific reference to Section 7.03(a), that it maintains books and records relating to the Project and the Agreement adequate to show, without limitation, the Eligible Sub-Borrowers agreed to the authorized use of funds acquired under the Loan and that the Bank will afford authorized representatives of A.I.D. the opportunity at all reasonable times to inspect such books and records, as provided by Section 7.03(b).

The Bank further certifies that it is in compliance with all the covenants and other terms and conditions of the above referenced Agreement and that there has been no material adverse change in the financial condition of the Bank since the date of the Agreement.

ABU DHABI INTERNATIONAL BANK INC.

By: _____

Date: _____