

POCBL459

ATTACHMENT 2

CONFORMED COPY

AGENCY FOR INTERNATIONAL DEVELOPMENT PROJECT DATA SHEET		1. TRANSACTION CODE <input checked="" type="checkbox"/> A = Add <input type="checkbox"/> C = Change <input type="checkbox"/> D = Delete	Amendment Number _____	DOCUMENT CODE 3
2. COUNTRY/ENTITY SRI LANKA		3. PROJECT NUMBER 383-0117		
4. BUREAU/OFFICE		5. PROJECT TITLE (maximum 40 characters) Mahaweli Basin Development III		

6. PROJECT ASSISTANCE COMPLETION DATE (PACD) MM DD YY 12 25 91	7. ESTIMATED DATE OF OBLIGATION (Under "B" below, enter 1, 2, 3, or 4) A. Initial FY 91 B. Quarter <input type="checkbox"/> C. Final FY 91
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8. COSTS (\$000 OR EQUIVALENT \$1 =)

A. FUNDING SOURCE	FIRST FY			LIFE OF PROJECT		
	B. FX	C. L/C	D. Total	E. FX	F. L/C	G. Total
AID Appropriated Total						
(Grant)	(15,000)	(0)	(15,000)	(15,000)	(0)	(15,000)
(Loan)	()	()	()	()	()	()
Other U.S.						
1. Host Country	35,000	0	35,000	35,000	0	35,000
2. Other Donor(s)						
TOTALS	50,000	0	50,000	50,000	0	50,000

9. SCHEDULE OF AID FUNDING (\$000)

A. APPROPRIATION	B. PRIMARY PURPOSE CODE	C. PRIMARY TECH. CODE		D. OBLIGATIONS TO DATE		E. AMOUNT APPROVED THIS ACTION		F. LIFE OF PROJECT	
		1. Grant	2. Loan	1. Grant	2. Loan	1. Grant	2. Loan	1. Grant	2. Loan
(1) ABOY	0 200	060		0	0	15,000		15,000	0
(2)									
(3)									
(4)									
TOTALS				0	0	15,000		15,000	0

10. SECONDARY TECHNICAL CODES (maximum 6 codes of 3 positions each)
 0/0 020 030

11. SECONDARY PURPOSE CODE

12. SPECIAL CONCERNS CODES (maximum 7 codes of 4 positions each)

A. Code BR BC

B. Amount

13. PROJECT PURPOSE (maximum 480 characters)

The purpose of the Mahaweli Basin Development (MBD) III Project is to finance \$15 million of the \$50 million settlement of an arbitration made by the International Court of Arbitration of the International Chamber of Commerce which resolves disputes arising out of AID-financed irrigation construction in System B of the Mahaweli Basin.

14. SCHEDULED EVALUATIONS

Interim MM YY MM YY Final MM YY

15. SOURCE/origin OF GOODS AND SERVICES
 000 741 Local Other (Specify)

16. AMENDMENTS/NATURE OF CHANGE PROPOSED (This is page 1 of a _____ page PP amendment)

I have reviewed and concur with the method of implementation contained in the Project Paper.

J. Wayne Butler
 J. Wayne Butler, Controller

17. APPROVED BY	Signature <i>Richard Brown</i>	Date signed MM DD YY 19 26 91	18. DATE DOCUMENT RECEIVED IN AID/W, OR FOR AID/W DOCUMENTS, DATE OF DISTRIBUTION MM DD YY
	Title Richard Brown Director/USAID/Sri Lanka		

DATE: September 24, 1991

ACTION MEMORANDUM FOR THE MISSION DIRECTOR, USAID/SRI LANKA

THROUGH: A/DD: David J. Garms
FROM: William A. Jeffers, Chief, Office of Projects
SUBJECT: SRI LANKA - Authorization of the Mahaweli Basin
Development III Project (383-0117)

I. ACTION

Your approval is required to 1) approve this Action Memorandum which serves as a Project Paper (PP) for the subject Project; 2) sign the attached Project Authorization which provides the Government of Sri Lanka (GSL) \$15 million grant funding from the Agriculture, Rural Development, and Nutrition (ARDN) account for a three month period extending from September 25, 1991 until December 25, 1991; and, 3) sign the attached Limited Scope Grant Agreement with the GSL executing the actions outlined in this PP.

II. BACKGROUND

The Mahaweli Basin Development (MBD) III Project is designed as a mechanism to provide funds to the GSL to finance a portion of the GSL's settlement of an arbitration award by the International Court of Arbitration of the International Chamber of Commerce in favor of Zachry-Dillingham (ZD), the U.S. joint venture that constructed main and branch canals under the Mahaweli Basin Development II (MBD II) Project (383-0073).

The purpose of the MBD II Project was to assist the Mahaweli Authority of Sri Lanka (MASL) to construct the main and branch canals for System B of the Accelerated Mahaweli Program. System B encompasses an irrigable area of 25,800 hectares in the Eastern dry zone, mostly in the Polonnaruwa District. The main System B offices of the Mahaweli Authority are situated in Welikanda--250 Km. from Colombo.

Design and supervision of the MBD II construction was done by a U.S. joint venture engineering group, Berger (New Jersey) and IECO (California), under a companion project--Mahaweli Basin Development I. Berger/IECO (BI) began their design work in September 1980 and had the designs and cost estimates completed for tendering by January 1982. The MBD II Project was obligated for \$110 million--\$107 million loan for construction and commodities and \$3 million grant. The grant portion was for a separate direct AID contract to a U.S. firm to develop and implement an operation and maintenance program for the canal system. This contract was awarded to CH2MHill in April 1985 and was completed in September 1988.

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The MBDII Project was tendered in two parts. Phase 1(a) included 23.5 Km of main canal and 30 Km of branch canals, comprising roughly 59 percent of the work. Phase 1(b) included 30 Km of main canal and 51 Km of branch canals for 41 percent of the total work. (Phase 1(a) was more expensive because of larger canal sections, more structures and more rock excavation.) The two-part contract gave MASL the option of not continuing with the original contractor for 1(b) in case it was not satisfied with the contractor's performance on 1(a). The bidders were required to bid on both parts of the tender.

A joint venture group of two U.S. construction firms, Zachry (Texas) and Dillingham (California), submitted the low bid of \$91,864,374 (\$63,082,737 for Phase 1(a) and \$28,781,637 for Phase 1(b)). The USAID Engineers' estimate was for a total of \$96.7 million and BI's was for \$126 million. On 29 May 1982, a host country, fixed-rate contract between Zachry/Dillingham (ZD) and MASL was signed and ZD began work in July 1982.

ZD soon began to run into implementation problems and to fall behind schedule. By January 1983, ZD was two and one-half months behind the original construction schedule for a critical section at the head of the canal. The earthwork portion, in particular, was falling behind from September 1982 until April 1984. ZD brought additional equipment in and they began to catch up. The problems encountered by ZD included: more rock and groundwater than anticipated, a large percentage of the excavated earth in the cut areas unsuitable for embankment in the fill areas, unexpected fractured and unstable rock strata requiring design changes after construction began, very poor performance by the primary earthwork subcontractor, shut downs caused by terrorist harassment, a seven-month delay in receiving GSL approval for two-way radio communications, and abnormally heavy rainfalls during two of the monsoon periods.

By mid-1983, it was obvious that ZD would not reach their first deadline which was to complete the R1 Branch Canal by September 9, 1983. In July 1983, BI recommended to MASL that a time extension be given to ZD but MASL did not respond. USAID wrote to ZD on September 3, 1983 asking them to accelerate their efforts so as to finish the R1 Branch Canal and Phase 1(a) by the contract dates. (This was the first of several letters that ZD used in their claim that they had been "directed to accelerate.")

On 1 September 1983, ZD submitted four claims to BI requesting additional payments and time extensions totaling 133 days. A modified payment and a time extension of 125 days was approved by MASL on November 28, 1984 (453 days after the request was received) despite several requests during the period from BI for time extensions to be approved. Several more time extensions were eventually granted for a total of 397 days after delays ranging from 154 to 548 days.

The following table provides an interesting comparison between the contract, actual and extended completion dates:

<u>Contract Work</u>	<u>Contract Completion Date</u>	<u>Actual Completion Date</u>	<u>Revised Completion Dates after Approved Extensions</u>
R1 Canal	9 Sep 83	14 Aug 84	20 Aug 84
Phase 1(a)	24 Jul 84	20 Aug 85	25 Aug 85
Phase 1(b)	30 Mar 86	30 Aug 86	4 Mar 87

Beginning with ZD's September 1983 request for payment, MASL withheld liquidated damages amounting to slightly over \$1 million for the period from September 10 through December 31, 1983, for non-completion of the R1 Canal. On 19 January 1984, ZD wrote to BI protesting the withholding of liquidated damages and requested they be restored. ZD also advised, for the first time, that they would be claiming extra compensation for being "directed to accelerate" their operations. The liquidated damages were eventually returned on until 4 March 1985.

During and shortly after the completion of the construction work, ZD submitted 39 claims, most of which were settled by negotiation or withdrawn. Nine of the claims were submitted by ZD to arbitration as provided in the contract. The first arbitration proceedings was held in Colombo in July 1986 to rule on Claim No. 11, Clearing and Grubbing--Phase 1(a). On 21 April 1987, the Panel issued an award ruling in favor of ZD.

In September 1987, MASL obtained an interim injunction from the Colombo District Court restraining ZD from seeking arbitration for any of the remaining claims. Over the next few months, ZD and MASL engaged in negotiations with the result that ZD dropped its Claim No. 38, Contract Administration, for over \$49 million. MASL, in return, dropped the injunction in March 1988. Also, in September 1987, MASL requested USAID to fund

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the services of a U.S. lawyer specializing in international arbitration as well as the services of the two main BI engineers to assist them in the next arbitration proceedings. USAID subsequently agreed to provide unexpended project funds for this purpose and, during the course of the arbitration proceedings, reimbursements to the U.S. legal firm totaled approximately \$570,000. At the present time, the funds remaining in the project amount to some \$7.2 million.

The remaining eight claims were submitted to arbitration on 6 October 1986 in a combined claim totalling over \$41 million. The proceedings were held in London in July 1990 and in Colombo in September 1990. By September 1990 the base claim plus interest amounted to \$56 million. The award was rendered on 10 April 1991 in favor of ZD for the amount of \$55,639,129 plus interest accruing at the rate of 12 percent per annum, commencing from 1 October 1990, until payment is made. By June 1991, the amount of the base award plus interest was approximately \$61 million.

Immediately after the award document was released, ZD filed a motion in the London courts to enforce the award. MASL, on the advice of their U.S. arbitration lawyer, then filed in the Sri Lankan courts to contest the award and, at the same time, requested the London court to postpone hearing the ZD case until after the Sri Lankan case was decided. After learning that a bond equaling the amount of the award would have to be posted, MASL dropped the request to the London court and the enforcement order stands at the moment. MASL, however, believed that ZD would have to come to the Sri Lankan courts in order to collect the award since MASL has no assets outside Sri Lanka. MASL had asked USAID to continue to fund the U.S. law firm to contest the award but USAID determined that it was not appropriate to provide additional funds for that purpose after the date of the award.

At the urging of both the Government of Sri Lanka and ZD, AID/W and OPIC were invited to assist in the negotiations. A meeting between MASL and ZD was scheduled in Colombo on 4-8 September 1991. A high-level negotiating team, led by the Deputy Secretary of the Treasury, was formed by the GSL. Other members included the Additional Solicitor General, the Director General of MASL, the Director of External Resources, and the State Secretary of the Ministry of Housing and Construction. Zachry Dillingham was represented by John Withers the senior representative for the consortium. The AID delegation was led by USAID/Sri Lanka Director Richard Brown and OPIC was represented by Robert O'Sullivan.

The four day negotiations resulted in a \$50 million settlement between the GSL and ZD. The terms of this settlement were outlined in a Memorandum of Understanding which provided a financing plan for GSL payments in return for ZD terminating all legal and related actions against MASL. The financing package agreed by both parties included \$5 million in cash by the GSL (By November 1, 1991), \$30 million from a GSL loan fully guaranteed by OPIC (By October 1, 1991), and a \$15 million grant to the GSL by USAID (By October 1991)

III. PROJECT RATIONALE AND DESCRIPTION

The purpose of the MBD III Project is to finance \$15 million of the \$50 million settlement agreed to by the Government of Sri Lanka and Zachry-Dillingham. The settlement resolves an outstanding \$61 million arbitration award to ZD by the International Court of Arbitration of the International Chamber of Commerce which resolves disputes arising out of AID-financed irrigation construction performed by ZD in System B of the Mahaweli Basin.

The MBD III Project will constitute a single payment to the Zachry Dillingham Consortium which will be made in conjunction with other financing made available by the GSL as part of its settlement with ZD. The life of project will be three months from September 25, 1991 until December 25, 1991.

By financing construction costs for a major element of the Accelerated Mahaweli Program, the MBD III Project will permit the GSL and USAID to pursue post-construction development which is necessary for the full realization of the benefits of the irrigation and settlement infrastructure. These activities will, in turn, be critical for improving incomes and the quality of life for rural communities.

The principal beneficiary of the project will be the US contractor who will receive additional funds for extraordinary construction costs incurred in System B. The secondary beneficiaries include the Mahaweli settlers in System B who are using the irrigation infrastructure and continue to benefit from the irrigation services and other agricultural assistance being provided by the GSL.

IV. COST ESTIMATE AND FINANCIAL PLAN

The total cost of the MBD III Project is \$50 million. The AID contribution to the project is \$15 million grant funding. OPIC is providing a guarantee to the GSL for a \$30 million commercial loan. The GSL will also provide the final \$5 million financing from its own budget. The GSL contribution is 70% of total project costs.

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**MBD III Project Budget
(000's U.S. Dollars)**

<u>Description</u>	<u>Amount</u>	<u>Source of Funds</u>
GSL Commercial Loan	\$30,000	OPIC Guarantee
Cash Payment by The GSL	\$ 5,000	GSL Budget
Project Grant to GSL	\$15,000	USAID Sri Lanka
TOTAL	\$50,000	

The AID funding for the MBD III project is available as a result of de-obligations from four other USAID Projects: Mahaweli Basin I (\$507,218) Mahaweli Basin Development II (\$5,871,176), Mahaweli Downstream Support Project (\$4,000,000), and Rehabilitation Assistance Project \$4,621,606). Since the GSL assumed \$30 million in new debt as a result of the settlement, AID agreed that if possible, the AID financed portion of the settlement would be grant rather than loan. Therefore, a conversion of the \$10,312,219 in existing loan funding to grant will be required.

Upon receipt of a voucher and payment instructions from the GSL, USAID will make direct payment through telegraphic transfer to Zachry Dillingham bank account in the United States.

V. IMPLEMENTATION PLAN

As described in section II. above, AID's contribution to the MBD III Project were negotiated in the Memorandum of Understanding between the GSL, Zachry Dillingham, OPIC and AID on September 8, 1991. The necessary actions required to implement the terms of this agreement are as follows:

<u>Action Required</u>	<u>By Whom</u>	<u>Timing</u>
GSL to obtain Cabinet Approval for Terms of MOU	GSL Ministry of Finance	September 18
AID to de-obligate funds, prepare MBD III, sign Limited Scope Grant Agreement	USAID, AID/W	September 30
GSL to negotiate commercial loan with OPIC guarantee and make \$30 payment to ZD	GSL, Ministry of Finance	September 30
AID to disburse \$15 million payment to ZD	USAID Controller-AID/W	September 30
GSL to make \$5 million payment to ZD	GSL, Ministry of Finance	November 1
ZD accept above payments as full and final settlement of its contract disputes as per the Section 2 of the MOU.	Zachry-Dillingham	November 1

The GSL Ministry of Finance (MOF) has primary responsibility for the implementation of the MBD III Project. The Deputy Secretary of the Treasury is the principal representative for the Government of Sri Lanka. The MOF will be responsible for: 1) directly communicating with ZD to finalize terms of MOU, 2) obtaining Cabinet and Parliamentary approval necessary to execute the terms of the MOU, 3) negotiating a \$30 million loan with OPIC guarantee, 4) approving de-obligations on USAID Projects, and 5) paying the final \$5 million installment in November 6) providing a voucher and payment instructions to USAID to enable direct payment to Zachry Dillingham.

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The USAID Engineering Office will be responsible for implementing AID's actions and monitoring progress of the Project.

As this Project constitutes a single payment for construction costs which have already been completed no long-term monitoring nor evaluation is anticipated. USAID, however, continues to monitor the agricultural development of System B, in areas served by the construction financed by MBD III, under other projects.

VI. ANALYSES

The nature and purpose of this project does not lend itself to traditional project analyses. The technical details and financial analyses of the completed construction activities have been the subject of legal and arbitration actions over the last four years. There are no outstanding technical nor financial issues. The administrative requirements of this project are well within the demonstrated capabilities of the participating parties. The social analysis of the MBD III Project can usefully draw upon the analysis of the previous MBD II Project which indicated a broad distribution of benefits to rural producers from the construction of the irrigation infrastructure.

VII. LEGAL REQUIREMENTS

The status of the applicable legal requirements for the project are as follow.

1. Congressional Notification: USAID/Sri Lanka has requested the APRE Bureau prepare a Congressional Notification (CN) for the MBD III Project. The CN was submitted to Congress on September 11, 1991 and is expected to expire on September 25, 1991 without objection.
2. Request for Financing: The GSL's request to AID for financing of its settlement with Zachry Dillingham was entertained during the negotiations. The Memorandum of Understanding reflects AID's acknowledgement of the GSL request.
3. Availability of Funds: Funding for the MBD III Project is available as a result of de-obligations from four Mission projects. Action on de-obligations and conversion of loan funds to grant is described in State 299322. Re-obligation will require separate budget allowances once the CN has expired. Authorization may proceed prior to the re-obligation.

4. Initial Environmental Examination (IEE): The MBD III Project "which has no effect on the natural or physical environment" qualifies for a categorical exclusion of the Section 216 Environmental Procedures as permitted by 216.2 (C)(i). The attached IIE (Attachment 3) has been approved by the Regional Environmental Officer.

5. Waivers: No waivers are required.

6. Conditionality: Three conditions will be imposed on the GSL prior to the disbursement of funds: 1) the GSL will be required to disburse \$30 million to ZD prior to the AID disbursement, 2) the GSL will forward copies of the documentation ZD vouchers requesting payment, 3) the GSL will provide the name of its representative for the Project.

VIII. AUTHORITY

The Amended and Re-Stated Delegation of Authority (DOA) of the Bureau for Asia and Private Enterprise dated August 9, 1991 Section 2A. provides you authority to authorize the MBD III Project since it is less than \$20 million, does not present any significant deviations from AID policy, does not require any waivers, and has a life of project less than ten years. Section 2D of the same delegation authorizes you to execute grant agreements with respect to grants authorized under the Foreign Assistance Act.

IX. RECOMMENDATION

1. That you approve and sign this action memorandum thereby approving the Project Paper for a three month, \$15 million Mahaweli Basin Development III Project,
2. That you sign the attached Project Authorization, authorizing the Mahaweli Basin Development III Project for \$15 million from the Agriculture, Rural Development, and Nutrition Account over the period between September 25, 1991 and December 25, 1991, and
3. That you sign the attached Limited Scope Grant Agreement which provides the Government of Sri Lanka \$15 million for financing its settlement with the US construction firm Zachry Billingham.

APPROVED: 
 DISAPPROVED: _____
 DATE: 9/25/91

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Attachments:

1. Project Authorization
2. Project Data Facesheet
3. Initial Environmental Examination
4. Statutory Checklist
5. Negotiated Memorandum of Understanding
6. Project Delegation from AID/W

Clearances:

PRM: R. Casey RC Date 19 Sept 91
CTR: JWButler JWB Date 9/16/91
ENG: JPinney JPP Date 175/10/91
AGR: GAnders GA Date 19 20 91
RLA: KTurner FAX Date 9/20/91

Drafted: PRJ:WJeffers: 9/16/91

PROJECT AUTHORIZATION

Name of Country: SRI LANKAName of Project: MAHAWELI BASIN
DEVELOPMENT IIINumber of Project: 383-0117

1. Pursuant to Section 103, of the Foreign Assistance Act of 1961, as amended, I hereby authorize the Mahaweli Basin Development III Project for Sri Lanka (the "Cooperative Country") involving planned obligations of not to exceed Fifteen Million United States Dollars (\$15,000,000) in grant funds over a three-month period from the date of authorization, subject to the availability of funds in accordance with the A.I.D. OYB/allotments process, to help in financing foreign exchange for the Project. The planned life of the project is three months from the date of initial obligation.

2. The Project consists of a payment, on behalf of the Cooperating Country, of \$15 million of the \$50 million settlement of an arbitration award made by the International Court of Arbitration of the International Chamber of Commerce in favor of Zachry Dillingham. The settlement resolves disputes which arose out of AID-financed irrigation construction in System B of the Mahaweli Basin.

3. The Project Agreement which may be negotiated and executed by the officer(s) to whom such authority is delegated in accordance with A.I.D. regulations and delegations of authority shall be subject to the following essential terms and covenants and major conditions, together with such other terms and conditions as A.I.D. may deem appropriate.

4. Source and Origin of Commodities, Nationality of Services

Services financed by A.I.D. under the Project shall have their source and origin in the United States, except as A.I.D. may otherwise agree in writing.

5. Other

[a] Conditions Precedent to Disbursement: Prior to the disbursement of the Grant, or to the issuance by A.I.D. of documentation pursuant to which such disbursement will be made, the Grantee shall, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

(1) A statement of the name of the person holding or acting in the office of the Grantee, and of any additional representatives, together with a specimen signature of each person specified in such statement;

(2) The invoice submitted by ZD to the GSL on August 1, 1991, together with a certification of ZD that the request for payment is consistent with the terms of the ZD/GSL contract; and is for goods and services supplied under that contract for which payment has not previously been requested;

(3) Evidence that the Grantee has contracted to borrow not less than Thirty Million U.S.Dollars (\$30,000,000) under loans made by or guaranteed by, the Overseas Private Investment Corporation, and has arranged for an immediate disbursement of the proceeds of such loans (the OPIC Disbursement") directly to Zachry-Dillingham; and

(4) Evidence that the Grantee has made satisfactory progress in providing the remaining Five Million U.S.Dollars (\$5,000,000) of its Thirty Five Million U.S.Dollar (\$35,000,000) contribution to the Project by November 1, 1991.

Clearances: PRM: DGarms AK
 PRJ: WJeffers WJ
 AGR: GAnders GA
 ENG: JPinney JP
 CTR: WButler WB

Date 9/25/91
 Date 9/25/91
 Date 9/25
 Date 25 Sep 91
 Date 05/9/91

Signature: Richard M. Brown
 Richard M. Brown
 Director

Date 9/26/91

Initial Environment Examination

Country : Sri Lanka
 Project Name : Mahaweli Basin Development III
 Project Number : 383-0117
 LOP Funding : \$15,000,000
 IEE Prepared by : William Jeffers, PRJ.

Environmental Action Recommended:

Positive Determination _____
 Negative Determination _____
 Categorical Exclusion X

This Project involves a payment of \$15 million of the \$50 million settlement awarded to Zachry/Dillingham by the International Court of Arbitration of the International Chamber of Commerce for its unsettled claims for irrigation construction in System B of the Mahaweli Basin.

The service contemplated in the Project falls within the class of actions that are categorically excluded from the procedures set forth in 22 C.F.R. 216.3 in accordance with C.F.R.216.2 (c) (1).

Action Requested by: Richard M. Brown
 Richard M. Brown, Director
 Date 9/19/91

Mission Environment Officer Clearance: Malcolm Jansen
 Malcolm Jansen, PRJ
 Date 9/18/91

Bureau Environmental Officer Clearance: Molly Kux
 Molly Kux, APRG/DR/TR
 Date 9/25/91

CONFORMED COPY**5C(2) ASSISTANCE CHECKLIST**

Listed below are statutory criteria applicable to the assistance resources themselves, rather than to the eligibility of a country to receive assistance. This section is divided into three parts. Part A includes criteria applicable to both Development Assistance and Economic Support Fund resources. Part B includes criteria applicable only to Development Assistance resources. Part C includes criteria applicable only to Economic Support Funds.

CROSS REFERENCE: IS COUNTRY CHECKLIST UP-TO-DATE? YES

A. CRITERIA APPLICABLE TO BOTH DEVELOPMENT ASSISTANCE AND ECONOMIC SUPPORT FUNDS

1. Host Country Development Efforts (FAA Sec. 601(a)): Information and conclusions on whether assistance will encourage efforts of the country to: (a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of industry agriculture, and commerce; and (f) strengthen free labor unions.

No

2. U.S. Private Trade and Investment (FAA Sec. 610(b)): Information and conclusions on how assistance will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).

The settlement of the outstanding claim by the U.S. contractor will demonstrate the commitment of Sri Lanka to meet its international commitments.

3. Congressional Notification

a. General Requirement (FY 1991 Appropriations Act Secs. 523 and 591; FAA Sec. 634A): If money is to be obligated for an activity not previously justified

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to Congress, or for an amount in excess of amount previously justified to Congress, has Congress been properly notified (unless the notification requirement has been waived because of substantial risk to human health or welfare)?

Yes

b. Notice of New Account Obligation (FY 1991 Appropriations Act Sec. 514): If funds are being obligated under an appropriation account to which they were not appropriated, has the President consulted with and provided a written justification to the House and Senate Appropriations Committees and has such obligation been subject to regular notification procedures?

Yes

c. Cash Transfers and Nonproject Sector Assistance (FY 1991 Appropriations Act Sec. 575(b)(3)): If funds are to be made available in the form of cash transfer or nonproject sector assistance, has the Congressional notice included a detailed description of how the funds will be used, with a discussion of U.S. interests to be served and a description of any economic policy reforms to be promoted?

N/A

4. Engineering and Financial Plans (FAA Sec. 611(a)): Prior to an obligation in excess of \$500,000, will there be: (a) engineering, financial or other plans necessary to carry out the assistance; and (b) a reasonably firm estimate of the cost to the U.S. of the assistance?

N/A

5. Legislative Action (FAA Sec. 611(a)(2)): If legislative action is required within recipient country with respect to an obligation in excess of \$500,000, what is the basis for a reasonable expectation that such action will be completed in time to permit orderly accomplishment of the purpose of the assistance?

N/A

6. Water Resources (FAA Sec. 611(b); FY 1991 Appropriations Act Sec. 501):

If project is for for water or water-related land resource construction, have benefits and costs been computed to the extent practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.)? (See A.I.D. Handbook 3 for guidelines.)

N/A

7. Cash Transfer and Sector Assistance (FY 1991 Appropriations Act Sec. 575(b)):

Will cash transfer or nonproject sector assistance be maintained in a separate account and not commingled with other funds (unless such requirements are waived by Congressional notice for nonproject sector assistance)?

N/A

8. Capital Assistance (FAA Sec. 611(e)): If project is capital assistance (e.g., construction), and total U.S. assistance for it will exceed \$1 million, has the Mission Director certified and Regional Assistant Administrator taken into consideration the country's capability to maintain and utilize the project effectively?

N/A

9. Multiple Country Objectives (FAA Sec. 601(a)): Information and conclusions whether project will encourage efforts of the country to: (a) increase the flow of international trade; (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations; (d) discourage monopolistic practices; (e) improve technical efficiency of, industry, agriculture and commerce; and (f) strengthen free labor unions.

The project finances a negotiated settlement between a U.S. contractor and the GSL. It will not significantly encourage any of the efforts listed in A-F.

10. U.S. Private Trade (FAA Sec. 601(b)): Information and conclusions on how project will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign

The payment of outstanding claims to the U.S. contractor will increase the confidence of U.S. suppliers and investors doing business in Sri Lanka. This in turn may increase U.S. business and investment.

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assistance programs (including use of private trade channels and the services of U.S. private enterprise).

11. Local Currencies

a. Recipient Contributions (FAA Secs. 612(b), 636(h)): Describe steps taken to assure that, to the maximum extent possible, the country is contributing local currencies to meet the cost of contractual and other services, and foreign currencies owned by the U.S. are utilized in lieu of dollars.

N/A

b. U.S.-Owned Currency (FAA Sec. 612(d)): Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release?

N/A

c. Separate Account (FY 1991 Appropriations Act Sec. 575): If assistance is furnished to a foreign government under arrangements which result in the generation of local currencies:

N/A

(1) Has A.I.D. (a) required that local currencies be deposited in a separate account established by the recipient government, (b) entered into an agreement with that government providing the amount of local currencies to be generated and the terms and conditions under which the currencies so deposited may be utilized, and (c) established by agreement the responsibilities of A.I.D. and that government to monitor and account for deposits into and disbursements from the separate account?

N/A

(2) Will such local currencies, or an equivalent amount of local currencies, be used only to carry out the purposes of the DA or ESF chapters of the FAA (depending on which chapter is the source of the assistance) or for the administrative requirements of the United States Government?

N/A

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(3) Has A.I.D. taken all appropriate steps to ensure that the equivalent of local currencies disbursed from the separate account are used for the agreed purposes? N/A

(4) If assistance is terminated to a country, will any unencumbered balances of funds remaining in a separate account be disposed of for purposes agreed to by the recipient government and the United States Government? N/A

12. Trade Restrictions

a. Surplus Commodities (FY 1991 Appropriations Act Sec. 521(a)): If assistance is for the production of any commodity for export, is the commodity likely to be in surplus on world markets at the time the resulting productive capacity becomes operative, and is such assistance likely to cause substantial injury to U.S. producers of the same, similar or competing commodity? N/A

b. Textiles (Lautenberg Amendment) (FY 1991 Appropriations Act Sec. 521(c)): Will the assistance (except for programs in Caribbean Basin Initiative countries under U.S. Tariff Schedule "Section 807", which allows reduced tariffs on articles assembled abroad from U.S.-made components) be used directly to procure feasibility studies, prefeasibility studies, or project profiles of potential investment in, or to assist the establishment of facilities specifically designed for, the manufacture for export to the United States or to third country markets in direct competition with U.S. exports, of textiles, apparel, footwear, handbags, flat goods (such as wallets or coin purses worn on the person), work gloves or leather wearing apparel? N/A

13. Tropical Forests (FY 1991 Appropriations Act Sec. 533(c)(3)): Will funds be used for any program, project N/A

or activity which would (a) result in any significant loss of tropical forests, or (b) involve industrial timber extraction in primary tropical forest areas?

14. PVO Assistance

a. Auditing and Registration (FY 1991 Appropriations Act Sec. 537):

If assistance is being made available to a PVO, has that organization provided upon timely request any document, file, or record necessary to the auditing requirements of A.I.D., and is the PVO registered with A.I.D.?

N/A

b. Funding Sources (FY 1991 Appropriations Act, Title II, under heading "Private and Voluntary Organizations"): If assistance is to be made to a United States PVO (other than a cooperative development organization), does it obtain at least 20 percent of its total annual funding for international activities from sources other than the United States Government?

N/A

15. Project Agreement Documentation (State Authorization Sec. 139 (as interpreted by conference report)): Has confirmation of the date of signing of the project agreement, including the amount involved, been cabled to State L/T and A.I.D. LEG within 60 days of the agreement's entry into force with respect to the United States, and has the full text of the agreement been pouched to those same offices? (See Handbook 3, Appendix 6G for agreements covered by this provision.)

N/A

16. Metric System (Omnibus Trade and Competitiveness Act of 1988 Sec. 5164, as interpreted by conference report, amending Metric Conversion Act of 1975 Sec. 2, and as implemented through A.I.D. policy): Does the assistance activity use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is

N/A

impractical or is likely to cause significant inefficiencies or loss of markets to United States firms? Are bulk purchases usually to be made in metric and are components, sub-assemblies, and semi-fabricated materials to be specified in metric units when economically available and technically adequate? Will A.I.D. specifications use metric units of measure from the earliest programmatic stages, and from the earliest documentation of the assistance processes (for example, project papers) involving quantifiable measurements length, area, volume, capacity, mass and weight), through the implementation stage?

17. Women in Development (FY 1991 Appropriations Act, Title II under heading "Women in Development"): Will assistance be designed so that the percentage of women participants will be demonstrably increased?

N/A

18. Regional and Multilateral Assistance (FAA Sec. 209): Is assistance more efficiently and effectively provided through regional or multilateral organizations? If so, why is assistance not so provided? Information and conclusions on whether assistance will encourage developing countries to cooperate in regional development programs.

No

This project will not encourage developing countries to cooperate in regional development programs.

19. Abortions (FY 1991 Appropriations Act, Title II, under heading "Population, DA," and Sec. 525):

a. Will assistance be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization?

No

b. Will any funds be used to lobby for abortion?

No

20. Cooperatives (FAA Sec. 111): Will assistance help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward a better life? No

21. U.S.-Owned Foreign Currencies

a. Use of Currencies (FAA Secs. 612(b), 636(h); FY 1991 Appropriations Act Secs. 507, 509): Describe steps taken to assure that, to the maximum extent possible, foreign currencies owned by the U.S. are utilized in lieu of dollars to meet the cost of contractual and other services. N/A

b. Release of Currencies (FAA Sec. 612(d)): Does the U.S. own excess foreign currency of the country and, if so, what arrangements have been made for its release? No

22. Procurement

a. Small Business (FAA Sec. 602(a)): Are there arrangements to permit U.S. small business to participate equitably in the furnishing of commodities and services financed? N/A

b. U.S. Procurement (FAA Sec. 604(a)): Will all procurement be from the U.S. except as otherwise determined by the President or determined under delegation from him? Yes

c. Marine Insurance (FAA Sec. 604(d)): If the cooperating country discriminates against marine insurance companies authorized to do business in the U.S., will commodities be insured in the United States against marine risk with such a company? N/A

d. Non-U.S. Agricultural Procurement (FAA Sec. 604(e)): If non-U.S. procurement of agricultural commodity or product thereof is to be financed, is there provision against such procurement when the domestic price of such commodity is less than parity? (Exception where N/A

commodity financed could not reasonably be procured in U.S.)

e. Construction or Engineering Services (FAA Sec. 604(g)): Will construction or engineering services be procured from firms of advanced developing countries which are otherwise eligible under Code 941 and which have attained a competitive capability in international markets in one of these areas? (Exception for those countries which receive direct economic assistance under the FAA and permit United States firms to compete for construction or engineering services financed from assistance programs of these countries.)

No

f. Cargo Preference Shipping (FAA Sec. 603): Is the shipping excluded from compliance with the requirement in section 901(b) of the Merchant Marine Act of 1936, as amended, that at least 50 percent of the gross tonnage of commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) financed shall be transported on privately owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates?

N/A

g. Technical Assistance (FAA Sec. 621(a)) If technical assistance is financed, will such assistance be furnished by private enterprise on a contract basis to the fullest extent practicable? Will the facilities and resources of other Federal agencies be utilized, when they are particularly suitable, not competitive with private enterprise, and made available without undue interference with domestic programs?

N/A

h. U.S. Air Carriers (International Air Transportation Fair Competitive Practices Act, 1974): If air transportation of persons or property is financed on grant basis, will U.S. carriers be used to the extent such service is available?

N/A

i. Termination for Convenience of U.S. Government (FY 1991 Appropriations Act Sec. 504): If the U.S. Government is a party to a contract for procurement, does the contract contain a provision authorizing termination of such contract for the convenience of the United States?

N/A

j. Consulting Services (FY 1991 Appropriations Act Sec. 524): If assistance is for consulting service through procurement contract pursuant to 5 U.S.C. 3109, are contract expenditures a matter of public record and available for public inspection (unless otherwise provided by law or Executive order)?

N/A

k. Metric Conversion (Omnibus Trade and Competitiveness Act of 1988, as interpreted by conference report, amending Metric Conversion Act of 1975 Sec. 2, and as implemented through A.I.D. policy): Does the assistance program use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms? Are bulk purchases usually to be made in metric, and are components, sub-assemblies, and semi-fabricated materials to be specified in metric units when economically available and technically adequate? Will A.I.D. specifications use metric units of measure from the earliest programmatic stages, and from the earliest documentation of the assistance processes (for example, project papers) involving quantifiable measurements (length, area, volume, capacity, mass and weight), through the implementation stage?

N/A

l. Competitive Selection Procedures (FAA Sec. 601(e)): Will the assistance utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise?

N/A

23. Construction

a. Capital Project (FAA Sec. 601(d)): If capital (e.g., construction) project, will U.S. engineering and professional services be used? N/A

b. Construction Contract (FAA Sec. 611(c)): If contracts for construction are to be financed, will they be let on a competitive basis to maximum extent practicable? N/A

c. Large Projects, Congressional Approval (FAA Sec. 620(k)): If for construction of productive enterprise, will aggregate value of assistance to be furnished by the U.S. not exceed \$100 million (except for productive enterprises in Egypt that were described in the Congressional Presentation), or does assistance have the express approval of Congress? N/A

24. U.S. Audit Rights (FAA Sec. 301(d)): If fund is established solely by U.S. contributions and administered by an international organization, does Comptroller General have audit rights? N/A

25. Communist Assistance (FAA Sec. 620(h)): Do arrangements exist to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of the Communist-bloc countries? Yes

26. Narcotics

a. Cash Reimbursements (FAA Sec. 483): Will arrangements preclude use of financing to make reimbursements, in the form of cash payments, to persons whose illicit drug crops are eradicated? Yes

b. Assistance to Narcotics Traffickers (FAA Section 487): Will arrangements take "all reasonable steps" to preclude use of financing to or through individuals or entities which we know or have reason to believe have either: (1) been convicted of a violation of any law or regulation of the United States or a foreign country relating to narcotics (or other controlled substances); or (2) been an illicit trafficker in, or otherwise involved in the illicit trafficking of, any such controlled substance? Yes

27. Expropriation and Land Reform (FAA Sec. 620(g)): Will assistance preclude use of financing to compensate owners for expropriated or nationalized property, except to compensate foreign nationals in accordance with a land reform program certified by the President? Yes

28. Police and Prisons (FAA Sec. 660): Will assistance preclude use of financing to provide training, advice, or any financial support for police, prisons, or other law enforcement forces, except for narcotics programs? Yes

29. CIA Activities (FAA Sec. 662): Will assistance preclude use of financing for CIA activities? Yes

30. Motor Vehicles (FAA Sec. 636(1)): Will assistance preclude use of financing to provide for purchase, sale, long-term lease, exchange or guaranty of the sale of motor vehicles manufactured outside U.S., unless a waiver is obtained? Yes

31. Milit. / Personnel (FY 1991 Appropriations Act Sec. 503): Will assistance preclude use of financing to pay pensions, annuities, retirement pay, or adjusted service compensation for prior or current military personnel? Yes

32. Payment of U.N. Assessments (FY 1991 Appropriations Act Sec. 505): Will assistance preclude use of financing to pay U.N. assessments, arrearages or dues? Yes
33. Multilateral Organization Lending (FY 1991 Appropriations Act Sec. 506): Will arrangements preclude use of financing to carry out provisions of FAA section 209(d) (transfer of FAA funds to multilateral organizations for lending)? Yes.
34. Export of Nuclear Resources (FY 1991 Appropriations Act Sec. 510): Will assistance preclude use of financing to finance the export of nuclear equipment, fuel, or technology? Yes
35. Repression of Population (FY 1991 Appropriations Act Sec. 511): Will assistance preclude use of financing for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights? Yes
36. Publicity or Propaganda (FY 1991 Appropriations Act Sec. 516): Will assistance be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress, to influence in any way the outcome of a political election in the United States, or for any publicity or propaganda purposes not authorized by Congress? No
37. Marine Insurance (FY 1991 Appropriations Act Sec. 563): Will any A.I.D. contract and solicitation, and subcontract entered into under such contract, include a clause requiring that U.S. marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate? N A

38. Exchange for Prohibited Act (FY 1991 Appropriations Act Sec. 569):

Will any assistance be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law?

No

B. CRITERIA APPLICABLE TO DEVELOPMENT ASSISTANCE ONLY

1. Agricultural Exports (Bumpers Amendment) (FY 1991 Appropriations Act Sec. 521(b), as interpreted by conference report for original enactment):

If assistance is for agricultural development activities (specifically, any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training), are such activities: (1) specifically and principally designed to increase agricultural exports by the host country to a country other than the United States, where the export would lead to direct competition in that third country with exports of a similar commodity grown or produced in the United States, and can the activities reasonably be expected to cause substantial injury to U.S. exporters of a similar agricultural commodity; or (2) in support of research that is intended primarily to benefit U.S. producers?

N/A

2. Tied Aid Credits (FY 1991 Appropriations Act, Title II, under heading "Economic Support Fund"): will DA funds be used for tied aid credits?

No

3. Appropriate Technology (FAA Sec. 107): Is special emphasis placed on use of appropriate technology (defined as relatively smaller, cost-saving, labor-using technologies that are generally

No

most appropriate for the small farms, small business, and small incomes of the poor)?

4. Indigenous Needs and Resources (FAA Sec. 281(b)): Describe extent to which the activity recognizes the particular needs, desires and capacities of the people of the country; utilizes the country's intellectual resources to encourage institutional development; and supports civic education and training in skills required for effective participation in governmental processes essential to self-government.

N/A

5. Economic Development (FAA Sec. 101(a)): Does the activity give reasonable promise of contributing to the development of economic resources, or to the increase of productive capacities and self-sustaining economic growth?

Yes

6. Special Development Emphasis (FAA Secs. 102(b), 113, 281(a)): Describe extent to which activity will: (a) effectively involve the poor in development by extending access to economy at local level, increasing labor-intensive production and the use of appropriate technology, dispersing investment from cities to small towns and rural areas, and insuring wide participation of the poor in the benefits of development on a sustained basis, using appropriate U.S. institutions; (b) encourage democratic private and local governmental institutions; (c) support the self-help efforts of developing countries; (d) promote the participation of women in the national economies of developing countries and the improvement of women's status, and (e) utilize and encourage regional cooperation by developing countries.

This project indirectly improves the lives of the poor living in Manaweli System B by allowing post-construction development to continue. It does not encourage local organizations, support self-help efforts, promote the participation of women nor encourage regional cooperation.

7. Recipient Country Contribution (FAA Sec. 110, 124(d)): Will the recipient country provide at least 25 percent of the costs of the program, project, or activity with respect to which the assis-

Yes

tance is to be furnished (or is the latter cost-sharing requirement being waived for a "relatively least developed" country)?

8. Benefit to Poor Majority (FAA Sec. 128(b)): IF the activity attempts to increase the institutional capabilities of private organizations or the government of the country, or if it attempts to stimulate scientific and technological research, has it been designed and will it be monitored to ensure that the ultimate beneficiaries are the poor majority?

N/A

9. Abortions (FAA Section 104(f); FY 1991 Appropriations Act, Title II under heading "Population, DA," and Sec. 535):

a. Are any of the funds to be used for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions?

No

b. Are any of the funds to be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations?

No

c. Are any of the funds to be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization?

No

d. Will funds be made available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services?

No

e. In awarding grants for natural family planning, will any applicant be

discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning? No

f. Are any of the funds to be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning? No

g. Are any of the funds to be made available to any organization if the President certifies that the use of these funds by such organization would violate any of the above provisions related to abortions and involuntary sterilization? No

10. Contract Awards (FAA Sec. 601(e)): Will the project utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise? N/A

11. Disadvantaged Enterprise (FY 1991 Appropriations Act Sec. 567): What portion of the funds will be available only for activities of economically and socially disadvantaged enterprises, historically black colleges and universities, colleges and universities having a student body in which more than 40 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically or socially disadvantaged (including women)? None

12. Biological Diversity (FAA Sec. 119(g)): Will the assistance: (a) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity; (b) be provided under a long-term agreement in which the recipient country agrees to protect ecosystems or other wildlife habitats; (c) support No

efforts to identify and survey ecosystems in recipient countries worthy of protection; or (d) by any direct or indirect means significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas? No

13. Tropical Forests (FAA Sec. 118; FY 1991 Appropriations Act Sec. 533(c)-(e) and (g)):

a. A.I.D. Regulation 16: Does the assistance comply with the environmental procedures set forth in A.I.D. Regulation 16? Yes

b. Conservation: Does the assistance place a high priority on conservation and sustainable management of tropical forests? Specifically, does the assistance, to the fullest extent feasible: (1) stress the importance of conserving and sustainably managing forest resources; (2) support activities which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and help countries identify and implement alternatives to colonizing forested areas; (3) support training programs, educational efforts, and the establishment or strengthening of institutions to improve forest management; (4) help end destructive slash-and-burn agriculture by supporting stable and productive farming practices; (5) help conserve forests which have not yet been degraded by helping to increase production on lands already cleared or degraded; (6) conserve forested watersheds and rehabilitate those which have been deforested; (7) support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal and processing; (8) support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation, (9) conserve biological diversity in forest areas by N/A

supporting efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis, by making the establishment of protected areas a condition of support for activities involving forest clearance or degradation, and by helping to identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas; (10) seek to increase the awareness of U.S. government agencies and other donors of the immediate and long-term value of tropical forests; (11) utilize the resources and abilities of all relevant U.S. government agencies; (12) be based upon careful analysis of the alternatives available to achieve the best sustainable use of land; and (13) take full account of the environmental impacts of the proposed activities on biological diversity.

c. Forest Degradation: Will assistance be used for: (1) the procurement or use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner and that the proposed activity will produce positive economic benefits and sustainable forest management systems; (2) actions which will significantly degrade national parks or similar protected areas which contain tropical forests, or introduce exotic plants or animals into such areas; (3) activities which would result in the conversion of forest lands to the rearing of livestock; (4) the construction, upgrading, or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undegraded forest lands; (5) the colonization of forest lands, or (6) the construction of dams or other water control structures which flood relatively undegraded forest lands, unless with respect to each such activity an environmental assessment indicates that the activity will contribute

N/A

significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development?

d. Sustainable Forestry: If assistance relates to tropical forests, will project assist countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry?

N/A

e. Environmental Impact Statements: Will funds be made available in accordance with provisions of FAA Section 117(c) and applicable A.I.D. regulations requiring an environmental impact statement for activities significantly affecting the environment?

Yes

14. Energy (FY 1991 Appropriations Act Sec. 533(c)): If assistance relates to energy, will such assistance focus on: (a) end-use energy efficiency, least-cost energy planning, and renewable energy resources, and (b) the key countries where assistance would have the greatest impact on reducing emissions from greenhouse gases?

N/A

15. Sub-Saharan Africa Assistance (FY 1991 Appropriations Act Sec. 562, adding a new FAA chapter 10 (FAA Sec. 496)): If assistance will come from the Sub-Saharan Africa DA account, is it: (a) to be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant; (b) to be used to promote sustained economic growth, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector; (c) to be provided in a manner that takes into account, during the planning process the local-level perspec-

N/A

tives of the rural and urban poor, including women, through close consultation with African, United States and other PVOs that have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa; (d) to be implemented in a manner that requires local people, including women, to be closely consulted and involved, if the assistance has a local focus; (e) being used primarily to promote reform of critical sectoral economic policies, or to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities; and (f) to be provided in a manner that, if policy reforms are to be effected, contains provisions to protect vulnerable groups and the environment from possible negative consequences of the reforms?

16. Debt-for-Nature Exchange (FAA Sec. 430): If project will finance a debt-for-nature exchange, describe how the exchange will support protection of: (a) the world's oceans and atmosphere, (b) animal and plant species, and (c) parks and reserves; or describe how the exchange will promote: (d) natural resource management, (e) local conservation programs, (f) conservation training programs, (g) public commitment to conservation, (h) land and ecosystem management, and (i) regenerative approaches in farming, forestry, fishing and watershed management.

N/A

17. Deobligation/Reobligation (FY 1991 Appropriations Act Sec. 515): If deob/reob authority is sought to be exercised in the provision of DA assistance, are the funds being obligated for the same general purpose, and for countries within the same region as originally obligated, and have the House and Senate Appropriations Committees been properly notified?

Yes

18. Loans

a. Repayment Capacity (FAA Sec. 122(b)): Information and conclusion on capacity of the country to repay the loan at a reasonable rate of interest. N/A

b. Long-range Plans (FAA Sec. 122(b)): Does the activity give reasonable promise of assisting long-range plans and programs designed to develop economic resources and increase productive capacities? Yes

c. Interest Rate (FAA Sec. 122(b)): If development loan is repayable in dollars, is interest rate at least 2 percent per annum during a grace period which is not to exceed ten years, and at least 3 percent per annum thereafter? N/A

d. Exports to United States (FAA Sec. 620(d)): If assistance is for any productive enterprise which will compete with U.S. enterprises, is there an agreement by the recipient country to prevent export to the U.S. of more than 20 percent of the enterprise's annual production during the life of the loan or has the requirement to enter into such an agreement been waived by the President because of a national security interest? N/A

19. Development Objectives (FAA Secs. 102(a), 111, 113, 281(a)): Extent to which activity will: (1) effectively involve the poor in development, by expanding access to economy at local level, increasing labor-intensive production and the use of appropriate technology, spreading investment out from cities to small towns and rural areas, and insuring wide participation of the poor in the benefits of development on a sustained basis, using the appropriate U.S. institutions; (2) help develop cooperatives, especially by technical assistance, to assist rural and urban poor to help themselves toward better life, and otherwise encourage democratic

The project will permit post-construction development in the system B of the Mahaweli including crop diversification commercialization, and microenterprise development for the poor. The project will not assist cooperating nor support self help efforts, promote the participation of women, nor utilize regional cooperation.

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private and local governmental institutions; (3) support the self-help efforts of developing countries; (4) promote the participation of women in the national economies of developing countries and the improvement of women's status; and (5) utilize and encourage regional cooperation by developing countries?

20. Agriculture, Rural Development and Nutrition, and Agricultural Research (FAA Secs. 103 and 103A):

a. Rural Poor and Small Farmers:

If assistance is being made available for agriculture, rural development or nutrition, describe extent to which activity is specifically designed to increase productivity and income of rural poor; or if assistance is being made available for agricultural research, has account been taken of the needs of small farmers, and extensive use of field testing to adapt basic research of local conditions shall be made.

The project financing for settling outstanding construction claims on the system B Irrigation works will permit continued development and investments in agriculture and agribusiness

b. Nutrition: Describe extent

to which assistance is used in coordination with efforts carried out under FAA Section 104 (Population and Health) to help improve nutrition of the people of developing countries through encouragement of increased production of crops with greater nutritional value; improvement of planning, research, and education with respect to nutrition, particularly with reference to improvement and expanded use of indigenously produced foodstuffs, and the undertaking of pilot or demonstration programs explicitly addressing the problem of malnutrition of poor and vulnerable people.

N/A

c. Food Security: Describe

extent to which activity increases national food security by improving food policies and management and by strengthening national food reserves, with particular concern for the needs of the poor, through measures encouraging

N/A

domestic production, building national food reserves, expanding available storage facilities, reducing post harvest food losses, and improving food distribution.

21. Population and Health (FAA Secs. 104(b) and (c)): If assistance is being made available for population or health activities, describe extent to which activity emphasizes low-cost, integrated delivery systems for health, nutrition and family planning for the poorest people, with particular attention to the needs of mothers and children, using paramedicals and auxiliary medical personnel, clinics and health posts, commercial distribution systems, and other modes of community outreach.

N/A

22. Education and Human Resources Development (FAA Sec. 105): If assistance is being made available for education, public administration, or human resource development, describe (a) extent to which activity strengthens nonformal education, makes formal education more relevant, especially for rural families and urban poor, and strengthens management capability of institutions enabling the poor to participate in development; and (b) extent to which assistance provides advanced education and training of people of developing countries in such disciplines as are required for planning and implementation of public and private development activities.

N/A

23. Energy, Private Voluntary Organizations, and Selected Development Activities (FAA Sec. 106): If assistance is being made available for energy, private voluntary organizations, and selected development problems, describe extent to which activity is:

N/A

a. concerned with data collection and analysis, the training of skilled personnel, research on and development of suitable energy sources, and pilot projects to test new methods of energy

N/A

production; and facilitative of research on and development and use of small-scale, decentralized, renewable energy sources for rural areas, emphasizing development of energy resources which are environmentally acceptable and require minimum capital investment;

b. concerned with technical cooperation and development, especially with U.S. private and voluntary, or regional and international development, organizations; N/A

c. research into, and evaluation of, economic development processes and techniques; N/A

d. reconstruction after natural or manmade disaster and programs of disaster preparedness; N/A

e. for special development problems, and to enable proper utilization of infrastructure and related projects funded with earlier U.S. assistance; N/A

f. for urban development, especially small, labor-intensive enterprises, marketing systems for small producers, and financial or other institutions to help urban poor participate in economic and social development. N/A

C. CRITERIA APPLICABLE TO ECONOMIC SUPPORT FUNDS ONLY

1. Economic and Political Stability (FAA Sec. 531(a)): Will this assistance promote economic and political stability? To the maximum extent feasible, is this assistance consistent with the policy directions, purposes, and programs of Part I of the FAA?

2. Military Purposes (FAA Sec. 531(e)): Will this assistance be used for military or paramilitary purposes?

3. Commodity Grants/Separate Accounts (FAA Sec. 609): If commodities are to be granted so that sale proceeds will accrue to the recipient country, have Special Account (counterpart) arrangements been made? (For FY 1991, this provision is superseded by the separate account requirements of FY 1991 Appropriations Act Sec. 575(a), see 575(a)(5).)

4. Generation and Use of Local Currencies (FAA Sec. 531(d)): Will ESF funds made available for commodity import programs or other program assistance be used to generate local currencies? If so, will at least 50 percent of such local currencies be available to support activities consistent with the objectives of FAA sections 103 through 106? (For FY 1991, this provision is superseded by the separate account requirement of FY 1991 Appropriations Act Sec. 575(a), see Sec. 575(a)(5).)

5. Cash Transfer Requirements (FY 1991 Appropriations Act, Title II, under heading "Economic Support Fund," and Sec. 575 (b)): If assistance is in the form of a cash transfer:

a. Separate Account: Are all such cash payments to be maintained by the country in a separate account and not to be commingled with any other funds?

b. Local Currencies: Will all local currencies that may be generated with funds provided as a cash transfer to such a country also be deposited in a special account, and has A.I.D. entered into an agreement with that government setting forth the amount of the local currencies to be generated, the terms and conditions under which they are to be used, and the responsibilities of A.I.D. and that government to monitor and account for deposits and disbursements?

c. U.S. Government Use of Local Currencies: Will all such local currencies also be used in accordance with FAA Section 609, which requires such local currencies to be made available to the U.S. Government as the U.S. determines necessary for the requirements of the U.S. Government, and which requires the remainder to be used for programs agreed to by the U.S. Government to carry out the purposes for which new funds authorized by the FAA would themselves be available?

d. Congressional Notice: Has Congress received prior notification providing in detail how the funds will be used, including the U.S. interests that will be served by the assistance, and, as appropriate, the economic policy reforms that will be promoted by the cash transfer assistance?

5C(2) PROJECT CHECKLIST

Listed below are statutory criteria applicable to projects. This Section is divided into two parts. Part A includes criteria applicable to all projects. Part B applies to projects funded from specific sources only: B(1) applies to all projects funded with Development Assistance; B(2) applies to projects funded with Development Assistance loans; and B(3) applies to projects funded from ESF

CROSS REFERENCES: IS COUNTRY CHECKLIST UP-TO-DATE? Yes.

HAS STANDARD ITEM CHECKLIST BEEN REVIEWED FOR THIS PROJECT? Yes.

GENERAL CRITERIA FOR PROJECT

- 1. FY 1990 Appropriations Act Sec. 523; FAA Sec 634A If money is be obligated for an activity not previously justified to Congress, or for an amount in excess of amount previously justified to Congress, has Congress been properly notified? Notification to Congress was made in the FY 91 Congressional Presentation
- 2. FAA Sec 611(a). Prior to an obligation in excess of \$500,000, will there be (a) engineering, financial or other plans necessary to carry out the assistance, and (b) a reasonably firm estimate of the cost to the U.S. of the assistance? (a) Yes (b) Yes Such information is provided in the Project Paper.
- 3. FAA Sec 611(a)(2). If legislative action is required within recipient country with respect to an obligation in excess of \$500,000, what is the basis for a reasonable expectation that such action will be completed in time to permit orderly accomplishment of the purpose of the assistance? No such action is required.
- 4. FAA Sec 611(b); FY 1990 Appropriations Act Sec 501 If project is for construction, have benefits and costs been computed to the extent practicable in accordance with the principles, standards, and procedures established pursuant to the Water Resources Planning Act (42 U.S.C 1962, et seq.)? (See A.I.D. Handbook 3 for guidelines.) N/A

5. FAA Sec. 611(e). If project is capital assistance (e.g., construction), and total U.S. assistance for it will exceed \$1 million, has Mission Director certified and Regional Assistant Administrator taken into consideration the country's capability to maintain and utilize the project effectively?
- N/A
6. FAA Sec. 209. Is project susceptible to execution as part of regional or multilateral project? If so, why is project not so executed? Information and conclusion whether assistance will encourage regional development programs.
- Project seeks to marry Sri Lankan technology needs with areas in which the U.S. has superior technological capability; therefore, it is appropriate for project to be bilateral although Project will take into account other donor activities in same area
7. FAA Sec. 601(a) Information and conclusions whether project will encourage efforts of the country to: (a) increase the flow of international trade, (b) foster private initiative and competition; (c) encourage development and use of cooperatives, credit unions, and savings and loan associations, (d) discourage monopolistic practices, (e) improve technical efficiency of industry, agriculture and commerce; and (f) strengthen free labor unions
- (a) Project is aimed at enhancing capability of local export-oriented industries to incorporate technology, by doing so it is expected that Sri Lankan exports will become more competitive in world trade, (b) Project activities will help private Sri Lankan companies to obtain better awareness of importance of technology and thereby become more innovative and competitive, (c) No significant impact, (d) Project activities will be available to a wide group of industries and companies within such industries and therefore should enhance internal and external competitive environment, (e) Project activities

are specifically aimed at encouraging Sri Lankan companies to adopt technology in their productive processes and thereby improve their efficiency and competitiveness; and (f) no significant impact

8 FAA Sec. 601(b). Information and conclusions on how project will encourage U.S. private trade and investment abroad and encourage private U.S. participation in foreign assistance programs (including use of private trade channels and the services of U.S. private enterprise).

Project contemplates focus on industrial sectors in which private U.S. firms have technological capability.

9 FAA Secs 612(b), 636(h)
Describe steps taken to assure that, to the maximum extent possible, the country is contributing local currencies to meet the cost of contractual and other services, and foreign currencies owned by the U.S. are utilized in lieu of dollars.

Recipients of grant funds will share in costs of activities being financed; recipient contributions will cover local currency costs; the US owns no excess Sri Lankan rupees.

10 FAA Sec 612(d). Does the U.S. own excess foreign currency of the country and if so, what arrangements have been made for its release?

No

11 FY 1990 Appropriations Act Sec. 521.
If assistance is for the production of any commodity for export, is the commodity likely to be in surplus on world markets at the time the resulting productive capacity becomes operative, and is such assistance likely to cause substantial injury to U.S. producers of the same, similar or competing commodity?

Although assistance is generally aimed at export industries, surveys of industrial sectors will determine those sectors most appropriate for support. The grant approval process will take into account all U.S. statutory requirements.

12 FY 1990 Appropriations Act Sec. 547
Will the assistance (except for programs in Caribbean Basin Initiative countries

Since the assistance

under U.S. Tariff Schedule "Section 807", which allows reduced tariffs on articles assembled abroad from U.S.-made components) be used directly to procure feasibility studies, prefeasibility studies, or project profiles of potential investment in, or to assist the establishment of facilities specifically designed for, the manufacture for export to the United States or to third country markets in direct competition with U.S. exports, of textiles, apparel, footwear, handbags, flat goods (such as wallets or coin purses worn on the person), work gloves or leather wearing apparel?

under this Project is provided through an intermediary and AID has no approval rights over specific grants, a determination has been made that this provision does not apply to assistance under this Project. However, the textile and apparel industries are not targeted for assistance under the Project. Periodic project evaluations will permit the Mission to review the level of our assistance to the textile and apparel sectors

13 FAA Sec 119(q)(4)-(6) & (10). Will the assistance (a) support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity; (b) be provided under a long-term agreement in which the recipient country agrees to protect ecosystems or other wildlife habitats, (c) support efforts to identify and survey ecosystems in recipient countries worthy of protection; or (d) by any direct or indirect means significantly degrade national parks or similar protected areas or introduce exotic plants or animals into such areas?

(a) No, although Project activities will be required to be environmentally sound.

- (b) No
- (c) No
- (d) No

14 FAA 121(d). If a Sahel project, has a determination been made that the host government has an adequate system for accounting for and controlling receipt and expenditure of project funds (either dollars or local currency generated therefrom)?

N/A

15 FY 1990 Appropriations Act, Title II, under heading "Agency for International Development" If assistance is to be made to a United States PVO (other than a

N/A

cooperative development organization), does it obtain at least 20 percent of its total annual funding for international activities from sources other than the United States Government?

- 16. FY 1990 Appropriations Act Sec. 537.
If assistance is being made available to a PVO, has that organization provided upon timely request any document, file, or record necessary to the auditing requirements of A.I.D., and is the PVO registered with A.I.D ? N/A

- 17. FY 1990 Appropriations Act Sec. 514
If funds are being obligated under an appropriation account to which they were not appropriated, has the President consulted with and provided a written justification to the House and Senate Appropriations Committees and has such obligation been subject to regular notification procedures? N/A

- 18. State Authorization Sec. 139 (as interpreted by conference report). Has confirmation of the date of signing of the project agreement, including the amount involved, been cabled to State L/T and A.I.D LEG within 60 days of the agreement's entry into force with respect to the United States, and has the full text of the agreement been pouched to those same offices? (See Handbook 3, Appendix 6G for agreements covered by this provision) The aggregate value of the Project Agreement is less than \$25 million; therefore, this requirement is inapplicable

- 19. Trade Act Sec 5164 (as interpreted by conference report), amending Metric Conversion Act of 1975 Sec. 2. Does the project use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms? Are bulk purchases usually to be made in metric and are components, sub- To the extent practical, metric measurements will be used in all procurements, grants and other activities under the Project

No bulk purchases are contemplated. All commodity procurements will use metric measurements, to extent practical

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semi-fabricated materials to be specified in metric units when economically available and technically adequate? Will A.I.D. specifications use metric units of measure from the earliest programmatic stages, and from the earliest documentation of the assistance processes (for example, project papers) involving quantifiable measurements length, area, volume, capacity, mass and weight), through the implementation stage?

and AID will also use such measurements throughout the Project.

20. FY 1990 Appropriations Act, Title II under heading "Women in Development " Will assistance be designed so that the percentage of women participants will be demonstrably increased?

No specific actions are targeted at increasing percentage of women participants; however, data will be generated under the Project concerning gender characteristics of industries assisted so that this issue can be reviewed and evaluated during the course of the Project.

21. FY 1990 Appropriations Act Sec 592(a) If assistance is furnished to a foreign government under arrangements which result in the generation of local currencies, has A.I.D. (a) required that local currencies be deposited in a separate account established by the recipient government, (b) entered into an agreement with that government providing the amount of local currencies to be generated and the terms and conditions under which the currencies so deposited may be utilized, and (c) established by agreement the responsibilities of A.I.D. and that government to monitor and account for deposits into and disbursements from the separate account?

No local currency will be generated under the Project.

Will such local currencies, or an equivalent amount of local currencies,

be used only to carry out the purposes of the DA or ESF chapters of the FAA (depending on which chapter is the source of the assistance) or for the administrative requirements of the United States Government?

Has A.I.D. taken all appropriate steps to ensure that the equivalent of local currencies disbursed from the separate account are used for the agreed purposes?

If assistance is terminated to a country, will any unencumbered balances of funds remaining in a separate account be disposed of for purposes agreed to by the recipient government and the United States Government?

B FUNDING CRITERIA FOR PROJECT

I Development Assistance Project Criteria

- a. FY 1990 Appropriations Act Sec 546. (as interpreted by conference report). If assistance is for agricultural development activities (specifically, any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training), are such activities:
 - (1) specifically and principally designed to increase agricultural exports by the host country to a country other than the United States, where the export would lead to direct competition in that third country with exports of a similar commodity grown or produced in the United States, and can the activities reasonably be expected to cause substantial injury to U S exporters of a similar agricultural commodity;
 - or (2) in support of research that is intended primarily to benefit U.S. producers?

Some assistance may be provided for the food processing industry for export, such assistance is not expected to cause substantial injury to US exporters of similar processed agricultural commodities.

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- b. FAA Sec. 107. Is special emphasis on use of appropriate technology (defined as relatively smaller, cost-saving, labor-using technologies that are generally most appropriate for the small farms, small business, and small incomes of the poor)?

A purpose of the Project is to help Sri Lankan businesses to identify and adopt appropriate technology.
- c. FAA Sec. 281(b). Describe extent to which the activity recognizes the particular needs, desires and capacities of the people of the country; utilizes the country's intellectual resources to encourage institutional development, and supports civic education and training in skills required for effective participation in governmental processes essential to self government

Project activities contemplate utilization of local firms for technology assistance and will seek to stimulate the further development of indigenous technological skills and knowledge
- d. FAA Sec 101(a) Does the activity give reasonable promise of contributing to the development of economic resources, or to the increase of productive capacities and self-sustaining economic growth?

Yes, by encouraging local businesses, primarily in export-oriented industries to adopt technologies that enable them to be more competitive and productive
- e. FAA Secs 102(b), 111, 113, 281(a). Describe the extent to which activity will: (1) effectively involve the poor in development by extending access to economy at local level, increasing labor-intensive production and the use of appropriate technology, dispersing investment from cities to small towns and rural areas, and insuring wide participation of the poor in the benefits of technical assistance, to assist rural and urban poor to help themselves toward a better life, and otherwise encourage democratic private and local governmental institutions; (3) support the self-help efforts of developing countries; (4) promote the partici-

(1) Project activities are aimed at assisting any eligible Sri Lankan company to adopt and utilize appropriate technology; enhanced efficiency and competitiveness which is expected to result therefrom should create increased employment opportunities. (2) Project activities are not addressed to this issue. (3) Project will assist companies in export-oriented industries become more competitive and will stimulate development of indigenous technical consulting capability; (4) no Project activities are

pation of women in the national economies of developing countries and the improvement of women's status; and (5) utilize and encourage regional cooperation by developing countries

specifically targeted at women; however, data will be generated to assess involvement of women in Project activities; (5) since Project is focused on developing capabilities of Sri Lankan industry and developing linkages with U.S. technology, Project is not suitable for focus on regional cooperation.

f FAA Secs. 103, 103A, 104, 105, 106, 120-21; FY 1990 Appropriations Act, Title II, under heading "Sub-Saharan Africa, DA " Does the project fit the criteria for the source of funds (functional account) being used?

Project is funded from ARDN and SDA accounts and Project activities will fit these sources of funds.

g FY 1990 Appropriations Act, Title II, under heading "Sub-Saharan Africa, DA " Have local currencies generated by the sale of imports or foreign exchange by the government of a country in Sub-Saharan Africa from funds appropriated under Sub-Saharan Africa, DA been deposited in a special account established by that government, and are these local currencies available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of Section 102 of the FAA and for necessary administrative requirements of the U S Government?

N/A

h FAA Sec 110, 124(d) Will the recipient country provide at least 25 percent of the costs of the program, project, or activity with respect to which the assistance is to be furnished (or is the latter cost-sharing requirement been waived for a "relatively least developed" country)?

Yes; cost-sharing by host-country grantees is expected to exceed 25 percent.

i FAA Sec. 128(b) If the activity attempts to increase the institutional capabilities of private

Data will be generated to determine participants under the Project and impact

organizations or the government of the country, or if it attempts to stimulate scientific and technological research, has it been designed and will it be monitored to ensure that the ultimate beneficiaries are the poor majority?

of Project activities. Poor majority is expected to benefit by increase in employment opportunities generated by companies participating in the Project.

J. FY 1990 Appropriations Act, under heading "Population, DA," and Sec. 535. Are any of the funds to be used for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions?

No

Are any of the funds to be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations?

No

Are any of the funds to be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization?

No

Will funds be made available only to voluntary family planning projects which offer, either directly or through referral to, information about access to, a broad range of family planning methods and services?

N/A

In awarding grants for natural family planning, will any applicant be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning?

N/A

Are any of the funds to be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning?

No

- k. FAA Sec. 601(e). Will the project utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise? Yes
- l. FY 1990 Appropriations Act Sec. 579. What portion of the funds will be available only for activities of economically and socially disadvantaged enterprises, historically black colleges and universities, colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically or socially disadvantaged (including women)?
A specific portion of Project funds has not been set aside for activities of such entities. The implementing entity will be advised to utilize such entities under the Project wherever practical.
- m. FAA Sec. 118(c). Does the assistance comply with the environmental procedures set forth in A.I.D. Regulation 16? Does the assistance place a high priority on conservation and sustainable management of tropical forests? Specifically, does the assistance, to the fullest extent feasible (1) stress the importance of conserving and sustainably managing forest resources, (2) support activities which offer employment and income alternatives to those who otherwise would cause destruction and loss of forests, and help countries identify and implement alternatives to colonizing forested areas, (3) support training programs, educational efforts, and the establishment or strengthening of institutions to improve forest management; (4) help end destructive slash and-burn agriculture by supporting stable and productive farming practices, (5) help conserve forests which have not yet been degraded by helping to increase
This project meets the criteria for categorical exclusion under Reg 16 because AID will not have direct control over detailed implementation of Project activities. However, the Project criteria for assistance to industrial sectors will ensure activities being supported are environmentally sound.

production on lands already cleared or degraded; (6) conserve forested watersheds and rehabilitate those which have been deforested; (7) support training, research, and other actions which lead to sustainable and more environmentally sound practices for timber harvesting, removal and processing; (8) support research to expand knowledge of tropical forests and identify alternatives which will prevent forest destruction, loss, or degradation; (9) conserve biological diversity in forest areas by supporting efforts to identify, establish, and maintain a representative network of protected tropical forest ecosystems on a worldwide basis, by making the establishment of protected areas a condition of support for activities involving forest clearance or degradation, and by helping to identify tropical forest ecosystems and species in need of protection and establish and maintain appropriate protected areas; (10) seek to increase the awareness of U.S. government agencies and other donors of the immediate and long-term value of tropical forests; and (11) utilize the resources and abilities of all relevant U.S. government agencies?

- n FAA Sec 118(c)(13) if the assistance will support a program or project significantly affecting tropical forests (including projects involving the planting of exotic plant species), will the program or project: (1) be based upon careful analysis of the alternatives available to achieve the best sustainable use of the land; and (2) take full account of the environmental impacts of the proposed activities on biological diversity?
- o FAA Sec 118(c)(14). Will assistance be used for: (1) the procurement or

N/A

(1) No

- use of logging equipment, unless an environmental assessment indicates that all timber harvesting operations involved will be conducted in an environmentally sound manner and that the proposed activity will produce positive economic benefits and sustainable forest management systems, or (2) actions which will significantly degrade national parks or similar protected areas which contain tropical forests, or introduce exotic plants or animals into such areas? (2) No
- FAA Sec 118(c)(15). Will assistance be used for: (1) activities which would result in the conversion of forest lands to the rearing of livestock, (2) the construction, upgrading or maintenance of roads (including temporary haul roads for logging or other extractive industries) which pass through relatively undegraded forest lands; (3) the colonization of forest lands; or (4) the construction of dams or other water control structures which flood relatively undegraded forest lands, unless with respect to each such activity an environmental assessment indicates that the activity will contribute significantly and directly to improving the livelihood of the rural poor and will be conducted in an environmentally sound manner which supports sustainable development? (1) No
(2) No
(3) No
(4) No
- 4 FY 1990 Appropriations Act Sec 534(a) If assistance relates to tropical forests, will project assist countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry? N/A
- FY 1990 Appropriations Act Sec. 534(b) If assistance relates to energy, will such assistance focus One of the technological improvements addressed under the Project may be

on improved energy efficiency, increased use of renewable energy resources, and national energy plans (such as least-cost energy plans) which include investment in end-use efficiency and renewable energy resources?

energy efficiency in production processes.

Describe and give conclusions as to how such assistance will: (1) increase the energy expertise of A.I.D. staff, (2) help to develop analyses of energy-sector plans that employ end-use analysis actions to minimize emissions of greenhouse gases at least cost, (3) develop energy-sector and other techniques to identify cost-effective actions to minimize reliance on fossil fuels, (4) help to analyze fully environmental impacts (including impact on global warming), (5) improve efficiency in production, transmission, distribution, and use of energy, (6) assist in exploiting nonconventional renewable energy resources, including wind, solar, small-hydro, geo-thermal, and advanced biomass systems, (7) expand efforts to meet the energy needs of the rural poor, (8) encourage host countries to sponsor meetings with United States energy efficiency experts to discuss the use of least-cost planning techniques, (9) help to develop a cadre of United States experts capable of providing technical assistance to developing countries on energy issues, and (10) strengthen cooperation on energy issues with the Department of Energy, EPA, World Bank and Development Assistance Committee of the OECD

(1) No significant impact; (2) No significant impact; (3) Among the technology issues to be addressed by the Project for a particular grantee may be increased energy efficiency; (4) activities being supported under the Project will be required to be environmentally sound, (5) Project grants may support analysis of energy utilization in production and technology to make such utilization more cost-efficient, (6) Project activities are not specifically addressed to energy issues although energy utilization may be a technological issue addressed under a particular grant, (7) no significant impact; (8) no significant impact, (9) Project activities will utilize U.S. experts who may have advice on energy technology in the production process, and (10) no significant impact

s FY 1990 Appropriations Act, Title II under heading "Sub-Saharan Africa, DA." (as interpreted by Conference report upon original enactment). If assistance will come from the Sub-Saharan Africa DA account, is it:

N/A

(1) to be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant; (2) being provided in accordance with the policies contained in section 102 of the FAA; (3) being provided, when consistent with the objectives of such assistance, through African, United States and other PVOs that have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa, (4) being used to help overcome shorter term constraints to long-term development, to promote reform of sectoral economic policies, to support the critical sector and natural resources, health, voluntary family planning services, education, and income generating opportunities, to bring about appropriate sectoral restructuring of the Sub-Saharan African economies, to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development, and to take into account, in assisting policy reforms, the need to protect vulnerable groups, (5) being used to increase agricultural production in ways that protect and restore the natural resource base, especially food production, to maintain and improve basic transportation and communication networks, to maintain and restore the natural resource base in ways that increase agricultural production, to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care, to

provide increased access to voluntary family planning services, to improve basic literacy and mathematics especially to those outside the formal educational system and to improve primary education, and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas?

International Development Act Sec. 711, FAA Sec. 463. If project will finance a debt-for-nature exchange, describe how the exchange will support protection of: (1) the world's oceans and atmosphere, (2) animal and plant species, and (3) parks and reserves; or describe how the exchange will promote: (4) natural resource management, (5) local conservation programs, (6) conservation training programs, (7) public commitment to conservation, (8) land and ecosystem management, and (9) regenerative approaches in farming, forestry, fishing and watershed management.

N/A

1990 Appropriations Act Sec. 515. If deob/reob authority is sought to be exercised in the provision of DA assistance, are the funds being obligated for the same general purpose, and for countries within the same region as originally obligated, and have the House and Senate Appropriations Committees been properly notified?

N/A

Development Assistance Project Criteria (loans only)

FAA Sec. 122(b). Information and conclusion on capacity of the country to repay the loan at a reasonable rate of interest.

N/A

FAA Sec. 620(d). If assistance is for any productive enterprise which

- will compete with U.S. enterprises, is there an agreement by the recipient country to prevent export to the U.S. of more than 20% of the enterprise's annual production during the life of the loan or has the requirement to enter into such an agreement been waived by the President because of a national security interest? N/A
- c FAA Sec 122(b). Does the activity give reasonable promise of assisting long-range plans and programs designed to develop economic resources and increase productive capacities? N/A
- d Economic Support Fund Project Criteria
- a FAA Sec 531(a) Will this assistance promote economic and political stability? To the maximum extent feasible, is this assistance consistent with the policy directions, purposes, and programs of Part I of the FAA? N/A
- b FAA Sec 531(e) Will this assistance be used for military or paramilitary purposes? N/A
- c FAA Sec. 609 If commodities are to be granted so that sale proceeds will accrue to the recipient country, have Special Account (counterpart) arrangements been made? N/A

5C(3) - STANDARD ITEM CHECKLIST

Listed below are the statutory items which normally will be covered routinely in those provisions of an assistance agreement dealing with its implementation, or covered in the agreement by imposing limits on certain uses of funds.

These items are arranged under the general headings of (A) Procurement, (B) Construction, and (C) Other Restrictions.

A PROCUREMENT

- | | | |
|---|--|---|
| 1 | <u>FAA Sec. 602(a)</u> . Are there arrangements to permit U.S. small business to participate equitably in the furnishing of commodities and services financed? | Procurements will be advertised in the U.S. in accordance with AID policy. |
| 2 | <u>FAA Sec 604(a)</u> Will all procurement be from the U.S except as otherwise determined by the President or determined under delegation from him? | Yes |
| 3 | <u>FAA Sec 604(d)</u> . If the cooperating country discriminates against marine insurance companies authorized to do business in the U S , will commodities be insured in the United States against marine risk with such a company? | N/A |
| 4 | <u>FAA Sec 604(e)</u> If non-U S procurement of agricultural commodity or product thereof is to be financed, is there provision against such procurement when the domestic price of such commodity is less than parity? (Exception where commodity financed could not reasonably be procured in U S) | N/A |
| 5 | <u>FAA Sec 604(g)</u> . Will construction or engineering services be procured from firms of advanced developing countries which are otherwise eligible under Code 941 and which have attained a competitive capability in international markets in one of these areas? (Exception for those countries which receive direct economic assistance under the FAA and permit United States firms to compete for construction or engineering services financed from assistance programs of these countries.) | It is expected that only U.S. and some local technical assistance will be financed by AID |

6. FAA Sec. 603. Is the shipping excluded from compliance with the requirement in section 901(b) of the Merchant Marine Act of 1936, as amended, that at least 50 percent of the gross tonnage of commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) financed shall be transported on privately owned U.S. flag commercial vessels to the extent such vessels are available at fair and reasonable rates? No
7. FAA Sec. 621(a). If technical assistance is financed, will such assistance be furnished by private enterprise on a contract basis to the fullest extent practicable? Will the facilities and resources of other Federal agencies be utilized, when they are particularly suitable, not competitive with private enterprise, and made available without undue interference with domestic programs? Yes; Yes
8. International Air Transportation Fair Competitive Practices Act, 1974 If air transportation of persons or property is financed on grant basis, will U.S. carriers be used to the extent such service is available? Such requirement will be included whenever AID financing is provided for such costs.
9. FY 1990 Appropriations Act Sec. 504 If the U.S. Government is a party to a contract for procurement, does the contract contain a provision authorizing termination of such contract for the convenience of the United States? Such a clause will be included in all AID direct contracts.
10. FY 1990 Appropriations Act Sec. 524 If assistance is for consulting service through procurement contract pursuant to 5 U.S.C. 3109, are contract expenditures a matter of public record and available for public inspection (unless otherwise provided by law or Executive order)? No consulting services contracts are anticipated.

11. Trade Act Sec. 5164 (as interpreted by conference report), amending Metric Conversion Act of 1975 Sec. 2. Does the project use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms? Are bulk purchases usually to be made in metric, and are components, subassemblies, and semi-fabricated materials to be specified in metric units when economically available and technically adequate?

To the maximum extent feasible, metric measurements will be used in the project.

12. FAA Secs 612(b), 636(h), FY 1990 Appropriations Act Secs 507, 509 Describe steps taken to assure that, to the maximum extent possible, foreign currencies owned by the U S are utilized in lieu of dollars to meet the cost of contractual and other services

There is no U.S.-owned local currency available for this project

13 FAA Sec 612(d) Does the U S. own excess foreign currency of the country, and, if so, what arrangements have been made for its release?

No

14 FAA Sec 601(e). Will the assistance utilize competitive selection procedures for the awarding of contracts, except where applicable procurement rules allow otherwise?

Yes

CONSTRUCTION

1 FAA Sec. 601(d). If capital (e.g., construction) project, will U S. engineering and professional services be used?

AID will not finance construction under this project.

2 FAA Sec 611(c) If contracts for construction are to be financed, will they be let on a competitive basis to maximum extent practicable?

N/A

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3. FAA Sec. 620(k). If for construction of productive enterprise, will aggregate value of assistance to be furnished by the U.S. not exceed \$100 million (except for productive enterprises in Egypt that were described in the CP), or does assistance have the express approval of Congress?
- N/A

OTHER RESTRICTIONS

1. FAA Sec. 122(b) If development loan repayable in dollars, is interest rate at least 2 percent per annum during a grace period which is not to exceed ten years, and at least 3 percent per annum thereafter?
- N/A
2. FAA Sec 301(d) if fund is established solely by U S contributions and administered by an international organization, does Comptroller General have audit rights?
- N/A
3. FAA Sec 620(h) Do arrangements exist to insure that United States foreign aid is not used in a manner which, contrary to the best interests of the United States, promotes or assists the foreign aid projects or activities of the Communist-bloc countries?
- AID's commingling requirements will be observed. No project of a Communist-bloc country is involved with the AID project.
4. Will arrangements preclude use of financing
3. FAA Sec 104(f), FY 1990 Appropriations Act under heading "Population, DA," and Secs 525, 535 (1) To pay for performance of abortions as a method of family planning or to motivate or coerce persons to practice abortions; (2) to pay for performance of involuntary sterilization as a method of family planning, or to coerce or provide financial incentive to any person to undergo sterilization, (3) to pay for
- The Project Grant Agreement will provide that grant funds may only be used for permissible project activities; however,

any biomedical research which relates, in whole or part, to methods or the performance of abortions or involuntary sterilizations as a means of family planning; or (4) to lobby for abortion?

specific prohibitions addressing the listed exclusions will not be included in the Grant Agreement.

- b. FAA Sec 483. To make reimbursements, in the form of cash payments, to persons whose illicit drug crops are eradicated?
- c. FAA Sec 620(g). To compensate owners for expropriated or nationalized property, except to compensate foreign nationals in accordance with a land reform program certified by the President?
- d. FAA Sec 660. To provide training, advice, or any financial support for police, prisons, or other law enforcement forces, except for narcotics programs?
- e. FAA Sec 662. For CIA activities?
- f. FAA Sec. 636(1). For purchase, sale, long-term lease, exchange or guaranty of the sale of motor vehicles manufactured outside U.S., unless a waiver is obtained?
- g. FY 1990 Appropriations Act Sec 503. To pay pensions, annuities, retirement pay, or adjusted service compensation for prior or current military personnel?
- h. FY 1990 Appropriations Act Sec 505. To pay U.N. assessments, arrearages or dues?
- i. FY 1990 Appropriations Act Sec. 506. To carry out provisions of FAA section 209(d) (transfer of FAA funds to multilateral organizations for lending)?

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CONFORMED COPY

- J. FY 1990 Appropriations Act Sec. 510.
To finance the export of nuclear equipment, fuel, or technology?
- k. FY 1990 Appropriations Act Sec. 511. For the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights?
- l. FY 1990 Appropriations Act Sec. 516; State Authorization Sec. 109. To be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress, to influence in any way the outcome of a political election in the United States, or for any publicity or propaganda purposes not authorized by Congress?

m. FY 1990 Appropriations Act Sec. 574.
Will any A.I.D. contract and solicitation, and subcontract entered into under such contract, include a clause requiring that U.S. marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate?

Yes

n. FY 1990 Appropriations Act Sec. 582.
Will any assistance be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law?

No

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MEMORANDUM OF UNDERSTANDING

Date: 8 September 1991

This Understanding as set out below has been reached among the Democratic Socialist Republic of Sri Lanka and Mahaweli Authority of Sri Lanka ("GSL/MASL"); Zachry-Dillingham, A Joint Venture ("ZD"); the United States Agency for International Development ("AID") and The Overseas Private Investment Corporation ("OPIC")

WHEREAS GSL/MASL and ZD entered into a Contract dated 10 May 1982 for construction of Phases 1(a) and 1(b) of Maduru Oya - System "B" Irrigation Project ("PROJECT") and

WHEREAS AID furnished financing to GSL/MASL for the PROJECT and

WHEREAS disputes arose between GSL/MASL and ZD over payment for ZD's work on the Project and certain of those disputes were referred to arbitration as called for in the Contract (ICC Case 8299 BCD decision dated 10 April 1991) resulting in an Award to ZD of \$4,000,000 on 1 October 1991 with interest accruing at 12% per annum and

WHEREAS ZD purchased certain insurance coverage from OPIC under which ZD has a claim pending and

WHEREAS that arbitration has led to court actions by ZD to enforce the Award and GSL/MASL to set aside the Award and

WHEREAS all parties want to fully and finally settle their disputes and resolve actual and potential claims without further expense and delay.

NOW THEREFORE the parties agree as follows :

1. GSL/MASL agrees to pay ZD \$50,000,000 in U.S. Dollars in the United States on or before 1 October 1991 except as expressly provided in Paragraph 7 below.

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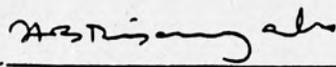
2. Upon receipt by ZD of all the payments described herein, the parties shall permanently cease all proceedings relating to this Project and ZD shall accept such payments as full and final settlement of any and all disputes arising out of the Project. The parties agree to cooperate with each other from the date of this Understanding until November 1, 1991 in suspending all legal activity concerning disputes arising out of the Project except as necessary to protect their legal rights.
3. No party hereto will pursue or initiate any new proceedings against the other(s) once this Understanding has been complied with fully and in strict accordance with its terms.
4. GSL/MASL covenant and agree that the full payment called for herein shall be made to ZD in the United States of America in U.S. Dollars, free of all Sri Lankan taxes, duties, stamps and similar obligations of any kind whatsoever.
5. In order to effect GSL/MASL's payment to ZD of the amount set forth herein, GSL/MASL covenant and agree to request and obtain an OPIC covenant and agrees to arrange for and guarantee loans to the Government of Sri Lanka in the amount of 30,000,000 U.S. Dollars. Payment from the loan proceeds of 30,000,000 U.S. Dollars shall be made directly to ZD on or before October 1, 1991 at a location in the United States designated by ZD. OPIC further agrees that included in the terms governing the loans to be provided and guaranteed as a part of this Understanding shall be an interest rate no greater than ten percent (10%) per annum and a loan re-payment period of not less than fifteen (15) years. OPIC and GSL/MASL will promptly negotiate a loan agreement within these parameters.
6. In order to effect GSL/MASL's payment of the amount set forth herein AID covenants and agrees to take all necessary steps to obtain the approvals necessary to provide GSL/MASL \$ 15,000,000 U.S. Subject to receiving the necessary approvals, with the permission of GSL/MASL, given without qualification and evidenced by its execution of this Understanding, AID shall make payment to ZD of the full \$ 15,000,000 U.S. on or before October 1, 1991 at a location in the United States to be designated by ZD. AID further covenants and agrees to take all reasonable and necessary steps to provide the \$ 15,000,000 U.S. described herein to GSL/MASL in the form of a grant from AID to the Government of Sri Lanka.

7. GSL/MASL covenants and agrees to pay \$5,000,000 U.S. Dollars in addition to the payment provided by AID and the OPIC guaranteed loans in order to reach the full amount of the settlement figure set forth in Paragraph 1 of this Understanding. Said funds are to be paid to ZD on or before November 1, 1991 at a location in the United States designated by ZD.
8. All parties hereto agree that the terms and obligations set forth in this Understanding shall be enforceable under the laws of the Democratic Socialist Republic of Sri Lanka and the United States of America and shall be specifically enforceable in the courts of both nations. The parties further consent to jurisdiction in the courts of either nation for any action necessary to enforce this Understanding. Nothing herein shall limit any party's right to pursue any other right or remedy including ZD's right to pursue the full amount of the arbitration award in the event of a breach of this Understanding.
9. All parties hereto agree to enter into any additional agreements and to prepare and execute any other documents necessary to implement this Understanding.
10. All individuals executing this Understanding on behalf of a party hereto represent and covenant that they have the full and complete power and authority to enter into this Understanding and to bind their respective nations and/or organizations to the obligations set forth herein. It is understood that the agreement of GSL/MASL evidenced by the signature of the Deputy Secretary of the Ministry of Finance is subject to approval by the Cabinet on Wednesday 11 September 1991. It is further understood that once approved by the Cabinet this Understanding will become a binding agreement of the Government of Sri Lanka. GSL/MASL shall provide ZD with written evidence of Cabinet approval of this Understanding by close of business on 11 September 1991.
11. This Understanding can be amended only by written instrument signed by all affected parties.

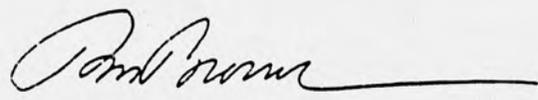
IN WITNESS WHEREOF, the signature and Seal of the Deputy Secretary of the Ministry of Finance has hereunto been affixed and the duly authorized representatives of AID, OPIC and ZD have hereunto set their hands for and on behalf of the said organizations effective the day and year first above written.

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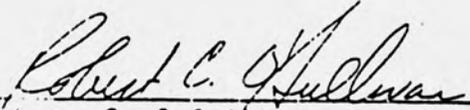
Signed for and on behalf of the
Democratic Socialist Republic of
Sri Lanka and the Mahaweli Authority
of Sri Lanka.


H. B. DISANAYARA
~~Deputy Secretary of the Treasury.~~
DEPUTY SECRETARY OF THE MINISTRY OF
FINANCE OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA.

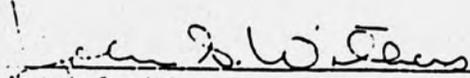
Signed for and on behalf of the
United States Agency for International
Development


Richard Brown
DIRECTOR U.S. AID MISSION TO SRI LANKA

Signed for and on behalf of the
Overseas Private Investment
Corporation


Robert C. Sullivan
ASSOCIATE GENERAL COUNSEL FOR CLAIMS

Signed for and on behalf of H.B.
Roby Company and Dillingham
Construction International Inc., a
Joint Venture


John S. Withers
ATTORNEY-IN-FACT

