

PD-KAJ 732

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ISN 50701

PROJECT
GRANT AGREEMENT
BETWEEN
THE ORGANIZATION OF EASTERN CARIBBEAN STATES
and the
UNITED STATES OF AMERICA
for
INVESTMENT PROMOTION AND EXPORT DEVELOPMENT
(538-0119)

Dated: June 4, 1987

001757

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PROJECT GRANT AGREEMENT

Dated:

Between

The Organization of Eastern Caribbean States (OECS) ("Grantee")

And

The United States of America, acting through the
Agency for International Development ("U.S.A.I.D.")

Article 1: The Agreement

The purpose of this Agreement is to set out the understandings of the parties named above ("Parties") with respect to the undertaking by the Grantee of the Project described below, and with respect to the financing of the Project by the parties.

Article 2: The Project

SECTION 2.1. Definition of Project

The Project, which is further described in Annex I, will consist of program and operational support to the Grantee for operations of the Eastern Caribbean Investment Promotion Service (ECIPS) program and operational support for investment promotion activities of Industrial Development Corporations (IDCs) of participating OECS countries or territories and support to the Economic Affairs Secretariat to administer the project. Annex I, attached, amplifies the above definition of the Project. Within the limits of the above definition of the Project, elements of the amplified description stated in Annex I may be changed by written agreement of the authorized representatives of the Parties named in Section 8.2., without formal amendment of this Agreement.

SECTION 2.2 Incremental Nature of Project

(a) U.S.A.I.D.'s contribution to the Project will be provided in increments, the initial one being made available in accordance with Section 3.1 of this Agreement. Subsequent increments will be subject to availability of funds to U.S.A.I.D. for this purpose, and to the mutual agreement of the Parties, at the time of subsequent increment, to proceed.

(b) Within the overall Project Assistance Completion Date stated in this Agreement, U.S.A.I.D., based upon consultation with the Grantee, may specify in project implementation letters appropriate time periods for utilization of funds granted by U.S.A.I.D. under an individual increment of assistance.

Article 3: Financing

SECTION 3.1. The Grant

To assist the Grantee to meet the costs of carrying out the Project, U.S.A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended, agrees to grant the Grantee under the terms of this Agreement not to exceed Eight Hundred Thousand United States ("U.S.") Dollars (US\$ 800,000) ("Grant").

The Grant may be used to finance foreign exchange costs, as defined in Section 6.1., and local currency costs, as defined in Section 6.2., of goods and services required for the Project.

SECTION 3.2. Grantee Resources for the Project

(a) The Grantee agrees to provide or cause to be provided for the Project all funds, in addition to the Grant, and all other resources required to carry out the Project effectively and in a timely manner.

(b) The resources provided by the Grantee for the Project will be not less than the equivalent of U.S. \$ 50,000 in 1988 and U.S. \$100,000 in 1989 towards the operating budget of ECIPS.

SECTION 3.3. Project Assistance Completion Date

(a) The "Project Assistance Completion Date" (PACD), which is December 31, 1989, or such other date as the Parties may agree to in writing, is the date by which the Parties estimate that all services financed under the Grant will have been performed and all goods financed under the Grant will have been furnished for the Project as contemplated in this Agreement.

(b) Except as U.S.A.I.D. may otherwise agree in writing, U.S.A.I.D. will not issue or approve documentation which would authorize disbursement of the Grant for services performed subsequent to the PACD or for goods furnished for the Project, as contemplated in this Agreement, subsequent to the PACD.

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters are to be received by U.S.A.I.D. or any bank described in Section 7.1. no later than nine (9) months following the PACD, or such other period as U.S.A.I.D. agrees to in writing. After such period, U.S.A.I.D., giving notice in writing to the Grantee, may at any time or times reduce the amount of the Grant by all or any part thereof for which requests for disbursements, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, were not received.

Article 4: Conditions Precedent to Disbursement

SECTION 4.1. First Disbursement

Prior to the first disbursement under the Grant, or to the issuance by U.S.A.I.D. of documentation pursuant to which disbursement will be made, the Grantee will, except as the Parties may otherwise agree in writing, furnish to U.S.A.I.D. in form and substance satisfactory to U.S.A.I.D.:

(a) An opinion of counsel acceptable to U.S.A.I.D. that this Agreement has been duly authorized and/or ratified by, and executed on behalf of, the Grantee, and that it constitutes a valid and legally binding obligation of the Grantee in accordance with all of its terms;

(b) A statement of the name of the person holding or acting in the office of the Grantee specified in Section 8.2., and of any additional representatives, together with a specimen signature of each person specified in such statement; and

(c) Evidence that an accounting system for the OECS is in place which conforms with generally accepted accounting standards.

SECTION 4.2. Disbursement to IDCs

Prior to any disbursement, or to the issuance by U.S.A.I.D. of documentation pursuant to which disbursement will be made for activities for a particular participating OECS country IDC, the Grantee, except as U.S.A.I.D. may otherwise agree in writing, shall:

(a) Provide to U.S.A.I.D. a statement of procedures regarding the approval, disbursement, control and accounting of project funds for the IDCs, and

(b) Receive from U.S.A.I.D. an executed Memorandum of Understanding (MOU) between U.S.A.I.D. and the respective OECS Government stating the particular terms and conditions, in addition to the provisions of this Grant Agreement, which will apply to the funding of that particular IDC for a stated year.

SECTION 4.3. Disbursement for ECIPS in 1988 & 1989

Prior to any disbursement, or to the issuance by U.S.A.I.D. of documentation pursuant to which disbursement will be made to finance ECIPS activities in 1988 and 1989, respectively, the Grantee shall, except as the Parties may otherwise agree in writing,

(a) Provide U.S.A.I.D. a statement of procedures regarding approval, disbursement, control and accounting of project funds for ECIPS, and

(b) furnish to U.S.A.I.D., in form and substance satisfactory to U.S.A.I.D., the respective breakdown of the 1988 and 1989 Government contributions or dues to the Grantee for ECIPS by country or territory.

SECTION 4.4. Notification

When U.S.A.I.D. has determined that the condition precedent specified in Section 4.1., 4.2., and 4.3., have been met, it will promptly notify the Grantee.

SECTION 4.5. Terminal Dates for Conditions Precedent

If all of the conditions specified in Section 4.1. have not been met within thirty (30) days from the date of this Agreement, or such later date as U.S.A.I.D. may agree to in writing, U.S.A.I.D., at its option, may terminate this Agreement by written notice to Grantee.

Article 5: Special Covenants

SECTION 5.1. Project Evaluation

The Parties agree to establish an evaluation program as part of the Project. Except as the Parties otherwise agree in writing, the program will include during the implementation of the Project and at one or more points thereafter:

- (a) Evaluation of progress toward attainment of the objectives of the Project;
- (b) Identification and evaluation of problem areas or constraints which may inhibit such attainment;
- (c) Assessment of how such information may be used to help overcome such problems; and
- (d) Evaluation, to the degree feasible, of the overall development impact of the Project.

SECTION 5.2. Workplans

During the period of the Project, the Grantee, except as U.S.A.I.D. may otherwise agree in writing, shall submit annually to U.S.A.I.D. beginning no later than September 30 for the previous year, the ECIPS Workplan for CY 1988, 1989 and 1990 for prior review and approval by U.S.A.I.D. The first Workplan shall include a discussion of proposed linkages between ECIPS and any other Investment and/or Export Agency in the OECS.

SECTION 5.3. Country Contributions to ECIPS and the IDC

Except as U.S.A.I.D. may otherwise agree in writing, the Grantee shall suspend all disbursement of Grant funds to a particular participating OECS country IDC if:

- (a) That country does not make the counterpart contribution to ECIPS stipulated in the documentation submitted in compliance with Section 4.3 of this Agreement.
- (b) U.S.A.I.D. notifies the Grantee of substantial deviation from agreements negotiated between U.S.A.I.D. and that particular OECS country Government and documented in MOUs, including agreements regarding counterpart contributions as scheduled for its IDC.

SECTION 5.4 Recurrent Costs

Unless U.S.A.I.D and the Grantee otherwise agree in writing, the Grantee shall submit to U.S.A.I.D. by January 31, 1989 a written plan for meeting estimated recurrent costs for ECIPS after the project ends.

Article 6: Procurement Source

SECTION 6.1. Foreign Exchange Costs

Disbursements pursuant to Section 7.1. will be used exclusively to finance the costs of goods and services required for the Project having, with respect to goods, their source and origin and with respect to services, their nationality, in the United States (Code 000 of the U.S.A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts entered into for such goods or services) ("Foreign Exchange Costs"), except as U.S.A.I.D. may otherwise agree in writing, and, except as provided in the Project Grant Standard Provisions Annex, Section C.1(b), with respect to marine insurance. Ocean transportation costs will be financed under the Grant only on vessels under flag registry of the United States except as U.S.A.I.D. may otherwise agree in writing.

SECTION 6.2. Local Currency Costs

Disbursements pursuant to Section 7.2. will be used exclusively to finance the costs of goods and services required for the Project having their source and, except as U.S.A.I.D. may otherwise agree in writing, their origin in the participating OECS countries or territories ("Local Currency Costs"). To the extent provided for under this Agreement, "Local Currency Costs" may also include the provision of local currency resources required for the Project.

Article 7: Disbursements

SECTION 7.1. Disbursements for Foreign Exchange Costs

(a) After satisfaction of conditions precedent, the Grantee may obtain disbursements of funds under the Grant for the Foreign Exchange Costs of goods or services required for the Project in accordance with the terms of this Agreement, by such of the following methods as may be mutually agreed upon:

(1) by submitting to U.S.A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or, (B) requests for U.S.A.I.D. to procure commodities or services in the Grantee's behalf for the Project, or,

(2) by requesting U.S.A.I.D. to issue Letters of Commitment for specified amounts (A) to one or more U.S. banks, satisfactory to U.S.A.I.D., committing U.S.A.I.D. to reimburse such bank or banks for payments made by them to contractors or suppliers, under Letters of Credit or otherwise, for such goods or services, or (B) directly to one or more contractors or suppliers, committing U.S.A.I.D. to pay such contractors or suppliers for such goods or services.

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

SECTION 7.2. Disbursement for Local Currency Costs

(a) After satisfaction of conditions precedent, the Grantee may obtain disbursements of funds under the Grant for Local Currency Costs required for the Project in accordance with the terms of this Agreement, by submitting to U.S.A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, requests to finance such costs.

(b) The local currency needed for such disbursements may be obtained:

(1) by acquisition by U.S.A.I.D. with U.S. dollars by purchase or;

(2) by U.S.A.I.D. (i) requesting the Grantee to make available the local currency for such costs, and (ii) thereafter making available to the Grantee, through the opening or amendment by U.S.A.I.D. of Special Letters of Credit in favor of the Grantee or its designee, an amount of U.S. Dollars equivalent to the amount of local currency made available by the Grantee, which dollars will be utilized for procurements from the United States under appropriate procedures described in Project Implementation Letters.

The U.S. dollar equivalent of the local currency made available hereunder will be, in the case of Subsection (b)(1) above, the amount of U.S. dollars required by U.S.A.I.D. to obtain the local currency, and in the case of Subsection (b)(2) above, an amount calculated at the rate of exchange specified in the applicable Special Letter of Credit Implementation Memorandum hereunder as of the date of the opening or amendment of the applicable Special Letter of Credit.

SECTION 7.3. Other Forms of Disbursement

Disbursements of the Grant may also be made through such other means as the Parties may agree to in writing.

SECTION 7.4. Rate of Exchange

Except as may be more specifically provided under Section 7.2., if funds provided under the Grant are introduced in the particular participating OECS countries or territories by U.S.A.I.D. or any public or private agency for purposes of carrying out obligations of U.S.A.I.D. hereunder, the Grantee will make such arrangements as may be necessary so that funds may be converted into local currency of the particular participating OECS countries or territories at the highest rate of exchange which, at the time the conversion is made, is not unlawful.

Article 8: Miscellaneous

SECTION 8.1. Communications

Any notice, request, document, or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram or cable, and will be deemed duly given or sent when delivered to such part at the following addresses:

To the Grantee: Director General
OECS

Mail Address: Central Secretariat
P.O. Box 179
Castries, St. Lucia
West Indies

To U.S.A.I.D.: USAID Mission Director

Mail Address: United States Agency for International
Development
P.O. Box 302
Bridgetown
Barbados
West Indies

All such communications will be in English, unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice. The Grantee, in addition, will provide the USAID Mission with a copy of each communication sent to any other U.S.A.I.D. office.

SECTION 8.2. Representatives

For all purposes relevant to this Agreement, the Grantee will be represented by the individual holding or acting in the Office of Director General and U.S.A.I.D. will be represented by the individual holding or acting in the office of the USAID Mission Director, each of whom, by written notice, may designate additional representatives for all purposes other than exercising the power under Section 2.1. to revise elements of the amplified description in Annex I. The names of the representatives of the Grantee, with specimen signatures, will be provided to U.S.A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

SECTION 8.3. Standard Provisions Annex

A "Project Grant Standard Provisions Annex" (Annex II) is attached to and forms part of this Agreement.

IN WITNESS WHEREOF, the Grantee and the United States of America, each acting through its duly authorized representative, have caused this Agreement to be signed in their names and delivered as of the day and year first above written.

UNITED STATES OF AMERICA

By: Alford Bisset

Title: Acting Director

Date: June 4, 1987

By: _____

Title:

THE ORGANIZATION OF EASTERN
CARIBBEAN STATES

By: Vaughan Lewis

Title: Director-General
Organization of Eastern
Caribbean States
Central Secretariat
P.O. Box 179
Castries St. Lucia

By: _____

Title:

AMPLIFIED PROJECT DESCRIPTION

SECTION I: PROJECT PURPOSE

The purpose of the Investment Promotion and Export Development Project is to stimulate increases in employment, income and other economic benefits in Member Countries of the OECS* by engaging in a set of activities that would encourage foreign and OECS investors to invest in existing and new ventures. The project will support an indigenous regional investment promotion effort aimed at providing the OECS countries a collective presence in North America and continuing institutional efforts to strengthen national investment promotion organizations. Through this Project the OECS countries are expected to develop and/or strengthen national and regional capability to promote private investment particularly in export-oriented businesses. The project will generate leads for potential investors and buyers resulting in an increase in foreign and local investment in the OECS countries, an increase in exports from the region, an increasing role of the private sector in economic development and an increase in private sector value added in the region.

Specific outputs produced in this project will be as follows:

1. Investment promotion agencies in each OECS country will be established or strengthened,
2. ECIPS will be established and operational as a regional investment promotion agency of the OECS,
3. Investment promotion staff of the countries and of ECIPS will be trained in their key functions,
4. A capability will be established in ECIPS and each country to analyze the investment climate and to develop follow-up recommendations to improve the climate,
5. A total of 28 business starts and/or expansions,
6. A total of 1200 jobs created as a result of the business starts/expansions.

SECTION 2: DETAILED DESCRIPTION

The ECIPS Project will provide program and operational support to the OECS for three components as discussed below.

* Antigua and Barbuda, Dominica, Grenada, Montserrat, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines.

1. Project Management

A Project management team will be located at the Economic Affairs Secretariat (EAS) of the OECS in Antigua. This team will function for the life of the Grant Agreement. Day-to-day operations of the project will be guided by a Project Director, who will be assisted by a Regional Technical Advisor and a Project Accounting officer. The Project Director will be responsible to the Director of the EAS with broad responsibility for the entire Project, including the ECIPS component based in the U.S. and oversight of subgrants to seven national investment promotion entities.

The Project will fund staff salaries, travel and per diem, office equipment and supplies, communications, technical assistance and staff training for project management.

2. ECIPS Operations

ECIPS has been established as an agency of the OECS. It will be governed by a Board of Directors a majority of whom shall be private sector members. The Board of Directors shall report to the Economic Affairs Committee. Day-to-day operations will be managed by an Executive Director and a small executive staff that will work to promote investment in the OECS region in conjunction with national investment promotion agencies. The Executive Director will serve as Secretary to the Board of Directors. The OECS shall communicate to USAID regarding the number of members that will be on the ECIPS Board and how they are to be selected after which USAID will inform the OECS of the extent to which Grant Funds may be utilized for Board travel and expenses.

The Project will provide program and budgetary support to the ECIPS office which will be staffed by an Executive Director, two Investment Promotion Officers, an Administrative Assistant and Secretary. Support will be provided through December 1989 for personnel costs, travel and per diem, office equipment/furnishings/supplies, office rent, communications, technical assistance, staff training and investment promotion programs and associated costs.

In its operations, ECIPS will respond to the need to portray the OECS region as an attractive location for business to invest. ECIPS will develop and disseminate accurate and up-dated information on the business climate in all OECS Member countries.

ECIPS will assist the IDCs to identify and attract potential investors and export buyers through attending investment seminars and trade shows, representing the OECS countries at speaking engagements and arranging for investment missions to visit the OECS Region. It will closely monitor and track investor/buyer interest in the Region, assess investor reaction to the OECS investment climate and provide feedback on information and data that could be useful to OECS countries in improving their investment climates.

In designing its investment/buyer promotion program, ECIPS will direct its efforts at targeted industries and tailor activities toward individual OECS country's needs and objectives, as specified in each country's action plan for investment promotion. To this end, individual OECS countries will be able to establish a standard of measuring the benefits being derived from the program in terms of its relative costs to that country.

3. National Investment Promotion

The Grantee will provide subgrants to investment promotion operations of the national Industrial Development Corporations (IDCs). Subgrants will be in support of programs of work presented in Country Action Plans (CAPs) prepared by the IDCs in cooperation with U.S.A.I.D. Specific U.S.A.I.D. interests and concerns relating to CAPs will be negotiated and documented in a Memorandum of Understanding between the respective OECS country and U.S.A.I.D., providing a specific basis for the Grantee to earmark and allocate project funds to participating IDCs. CAPs will be a rolling two year forward planning document with a detailed plan and budget for the first year. This detailed plan and budget for the first year will provide the basis for the MOU and for earmarking funds under the Grant for that particular country IDC for that year. CAPs and MOUs will be updated annually. Updated CAPs and MOUs will provide the basis for earmarking additional Grant funds for particular country IDCs. All CAPs and MOUs will be provided by U.S.A.I.D. to the Grantee and will provide the basis for oversight and reporting activities by the Grantee through the Project Director's office.

SECTION 3: PROJECT ADMINISTRATION AND IMPLEMENTATION

The OECS Secretariat, through the Economic Affairs Secretariat in Antigua will have overall responsibility for implementing the Project. The Director of the Economic Affairs Secretariat will be designated as a representative of the Grantee pursuant to Section 8.2 of the Grant Agreement. Principal liaison will be with (a) the Council of Ministers, (b) ECIPS Board of Directors and Executive Director, (c) the national IDC directors or managers and (d) the USAID Project Officer for the Investment Promotion and Export Development Project under which this Grant is being provided.

The OECS will have responsibility for monitoring and reporting to U.S.A.I.D. on all aspects of the Project. The OECS will also have responsibility for developing appropriate arrangements for documenting understandings reached with IDCs and providing the necessary implementation guidance pursuant to this Grant. Such documentation will be provided to U.S.A.I.D. for prior review and approval before subgrants are made. Arrangements and procedures for subgrants will be addressed in the Grantee's submission to U.S.A.I.D. pursuant to Article 4, Section 4.1 (c) of the Grant. Participating OECS Country Governments, through their IDCs, will be responsible for implementing, monitoring and reporting to the OECS Secretariat on all aspects of the subgrants to the IDCs. This includes negotiating, awarding and monitoring performance of contracts made under IDC subgrants. Regarding ECIPS the Grantee will be responsible for determining

the respective responsibilities of the Project Director and the ECIPS Executive Director in accordance with Article 4, Section 4.1 (c) of the Grant and pursuant to guidance from U.S.A.I.D. provided in Project Implementation Letters. While the OECS is not a direct party to the negotiated MOU between U.S.A.I.D. and the OECS member countries, it will have fiduciary, monitoring and reporting responsibility for subgrants to the IDCs. If key provisions of the MOU are not being met by a Member Country, U.S.A.I.D. will have the responsibility to inform such Country and the OECS Secretariat in writing of the default. OECS agrees that such notification from U.S.A.I.D. regarding default is sufficient basis upon which to terminate disbursements to the IDC of the Member Country in default in accordance with the provisions of the MOU agreed between that Country and USAID. While such default persists, disbursement of grant funds to that particular Country shall cease.

To carry out its monitoring and reporting responsibilities, the OECS Project Director will develop, in cooperation with U.S.A.I.D., an appropriate data collection and analysis system to track progress of the Project. Further guidance on the elements of the system will be provided to the Grantee via Project Implementation Letters. Data collected will provide the primary basis for a two-part evaluation of the Project in 1988 and 1989. A major aspect of these evaluations will be to ascertain the cost-effectiveness of ECIPS, in particular, and of overall assistance being provided in this Project, in general. The evaluation will also assess progress being made to sustain the operations of ECIPS beyond the life of the project and the strategies that were considered to insure continuation of ECIPS.

SECTION 4: ILLUSTRATIVE FINANCIAL PLAN

Funding of this Grant will be on an incremental basis, subject to availability of funds. The illustrative financial plan is as follows. The Grantee has authority to modify any line item up to 10 percent without further prior written approval from U.S.A.I.D.

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ANNEX 1
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	<u>INITIAL OBLIGATION</u>	<u>BALANCE OBLIGATION</u>	<u>TOTAL</u>
I. ECIPS			

A. Salary	183.50	262.50	446.00

B. Travel & Per Diem	70.00	129.85	199.85

C. Equipment	20.00	5.00	25.00

D. Office Supplies	7.00	30.00	37.00

E. Maintenance of Equipment	0.00	29.25	29.25

F. Rent	0.00	99.50	99.50

G. Promotion	20.00	177.00	197.00

H. Trade Shows	12.50	87.50	100.00

I. Technical Assistance	38.20	392.15	430.35

ECIPS SUB-TOTAL	351.20	1212.75	1563.95
Less OECS Contributions	0.00	150.00	150.00
RDO/C ECIPS SUB-TOTAL	351.20	1062.75	1413.95
II. OECS SUPPORT			

A. Salary	42.50	177.50	220.00

B. Travel & Per Diem	28.30	73.25	101.55

C. Equipment	2.00	0.00	2.00

D. Office Supplies	2.25	6.00	8.25

E. Maintenance of Equipment	1.00	4.50	5.50

F. Communication	12.75	34.00	46.75

G. TA & Training	15.00	85.00	100.00

OECS SUPPORT SUB-TOTAL	103.80	380.25	484.05
III. IDC OPERATIONAL SUPPORT	320.00	520.00	840.00

IV. CONTINGENCY	25.00	137.00	162.00

GRAND TOTAL	\$800.00	\$2100.00	\$2900.00
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PROJECT GRANT STANDARD

PROVISIONS ANNEX

Definitions: As used in this Annex, the "Agreement" refers to the Project Grant Agreement to which this Annex is attached and of which this Annex forms a part. Terms used in this Annex have the same meaning or reference as in the Agreement.

Article A: Project Implementation Letters

To assist Grantee in the implementation of the Project, U.S.A.I.D., from time to time, will issue Project Implementation Letters that will furnish additional information about matters stated in this Agreement. The parties may also use jointly agreed-upon Project Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Project Implementation Letters will not be used to amend the text of the Agreement, but can be used to record revisions or exceptions which are permitted by the Agreement, including the revision of elements of the amplified description of the Project in Annex I.

Article B: General Covenants

SECTION B.1. Consultation. The Parties will cooperate to assure that the purpose of this Agreement will be accomplished. To this end, the Parties, at the request of either, will exchange views on the progress of the Project, the performance of obligations under this Agreement, the performance of any consultants, contractors or suppliers engaged on the Project, and other matters relating to the Project.

SECTION B.2. Execution of the Project. The Grantee will:

- (a) carry out the Project or cause it to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules, or other arrangements, and with any modifications therein approved by U.S.A.I.D. pursuant to this Agreement; and
- (b) provide qualified and experienced management for, and train such staff as may be appropriate for the maintenance and operation of the Project, and, as applicable for continuing activities, cause the Project to be operated and maintained in such manner as to assure the continuing and successful achievement of the purposes of the Project.

SECTION B.3. Utilization of Goods and Services

- (a) Any resources financed under the Grant will, unless otherwise agreed in writing by U.S.A.I.D., be devoted to the Project until the completion of the Project, and thereafter will be used so as to further the objectives sought in carrying out the Project.

- (b) Goods or services financed under the Grant, except as U.S.A.I.D. may otherwise agree in writing, will not be used to promote or assist a foreign aid project or activity associated with or financed by a country not included in Code 935 of the U.S.A.I.D. Geographic Code Book as in effect at the time of such use.

SECTION B.4. Taxation

- (a) This Agreement and the Grant will be free of any taxation or fees imposed under laws in effect in the territory of the Grantee.
- (b) To the extent that (1) any contractor, including any consulting firm, any personnel of such contractor financed under the Grant, and any property or transaction relating to such contracts and (2) any commodity procurement transaction financed under the Grant are not exempt from identifiable taxes, tariffs, duties, or other levies imposed under laws in effect in the territory of the Grantee, the Grantee will, as and to the extent provided in and pursuant to Project Implementation Letters, pay or reimburse the same with funds other than those provided under the Grant.

SECTION B.5. Reports, Records, Inspections, Audits

The Grantee will:

- (a) furnish U.S.A.I.D. such information and reports relating to the Project and to this Agreement as U.S.A.I.D. may reasonably request;
- (b) maintain or cause to be maintained, in accordance with generally accepted accounting principles and practices consistently applied, books and records relating to the Project and to this Agreement, adequate to show, without limitation, the receipt and use of goods and services acquired under the Grant. Such books and records will be audited regularly, in accordance with generally accepted auditing standards, and maintained for three years after the date of last disbursement by U.S.A.I.D.; such books and records will also be adequate to show the nature and extent of solicitations of prospective suppliers of goods and services acquired, the basis of award of contracts and orders, and the overall progress of the Project toward completion; and
- (c) afford authorized representatives of a Party the opportunity at all reasonable times to inspect the Project, the utilization of goods and services financed by such Party, and books, records, and other documents relating to the Project and the Grant.

SECTION B.6. Completeness of Information. The Grantee confirms:

- (a) that the facts and circumstances of which it has informed U.S.A.I.D., or caused U.S.A.I.D. to be informed, in the course of reaching agreement with U.S.A.I.D. on the Grant, are accurate and complete, and include all facts and circumstances that might materially affect the Project and the discharge of responsibilities under this Agreement;
- (b) that it will inform U.S.A.I.D. in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Project or the discharge of responsibilities under this Agreement.

SECTION B.7. Other Payments. Grantee affirms that no payment have been or will be received by any official of the Grantee in connection with the procurement of goods or services financed under the Grant except fees, taxes, or similar payments legally established in the country of the Grantee.

SECTION B.8. Information and Marking. The Grantee will give appropriate publicity to the Grant and the Project as a program to which the United States has contributed, identify the Project site, and mark goods financed by U.S.A.I.D., as described in Project Implementation Letters.

Article C: Procurement Provisions

SECTION C.1. Special Rules

- (a) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.
- (b) Premiums for marine insurance placed in the territory of the Grantee will be deemed an eligible Foreign Exchange Cost, if otherwise eligible under Section C.7(a).
- (c) Any motor vehicles financed under the Grant will be of United States manufacture, except as U.S.A.I.D. may otherwise agree in writing.
- (d) Transportation by air, financed under the Grant, of property or persons, will be on carriers holding United States certification, to the extent service by such carriers is available. Details on this requirement will be described in a Project Implementation Letter.

SECTION C.2. Eligibility Date. No goods or services may be financed under the Grant which are procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as the Parties may otherwise agree in writing.

SECTION C.3. Plans, Specifications, and Contracts. In order for there to be mutual agreement on the following matters, and except as the Parties may otherwise agree in writing:

- (a) The Grantee will furnish to U.S.A.I.D. upon preparation:
 - (1) any plans, specifications, procurement or construction schedules, contracts, or other documentation relating to goods or services to be financed under the Grant, including documentation relating to the prequalification and selection of contractors and to the solicitation of bids and proposals. Material modifications in such documentation will likewise be furnished U.S.A.I.D. on preparation;
 - (2) such documentation will also be furnished to U.S.A.I.D., upon preparation, relating to any goods or services which, though not financed under the Grant, are deemed by U.S.A.I.D. to be of major importance to the Project. Aspects of the Project involving matters under this sub-section (a) (2) will be identified in Project Implementation Letters;
- (b) Documents related to the prequalification of contractors, and to the solicitation of bids or proposals for goods and services financed under the Grant will be approved by U.S.A.I.D. in writing prior to their issuance, and their terms will include United States standards and measurements;
- (c) Contracts and contractors financed under the Grant for engineering and other professional services, for construction services, and for such other services, equipment, or materials as may be specified in Project Implementation Letters, will be approved by U.S.A.I.D. in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by U.S.A.I.D. prior to execution; and
- (d) Consulting firms used by the Grantee for the Project but not financed under the Grant, the scope of their services and such of their personnel assigned to the Project as U.S.A.I.D. may specify, and construction contractors used by the Grantee for the Project but not financed under the Grant, shall be acceptable to U.S.A.I.D.

SECTION C.4. Reasonable Price. No more than reasonable prices will be paid for any goods or services financed, in whole or in part, under the Grant. Such items will be produced on a fair and, to the maximum extent practicable, on a competitive basis.

SECTION C.5. Notification to Potential Suppliers. To permit all United States firms to have the opportunity to participate in furnishing goods and services to be financed under the Grant, the Grantee will furnish U.S.A.I.D. such information with regard thereto, and at such times, as U.S.A.I.D. may request in Project Implementation Letters.

SECTION C.6. Shipping

- (a) Goods which are to be transported to the territory of the Grantee may not be financed under the Grant if transported either: (1) on an ocean vessel or aircraft under the flag of a country which is not included in U.S.A.I.D. Geographic Code 935 as in effect at the time of shipment; or, (2) on an ocean vessel which U.S.A.I.D., by written notice to the Grantee has designated as ineligible; or (3) under an ocean or air charter which has not received prior U.S.A.I.D. approval.
- (b) Costs of ocean or air transportation (of goods or persons) and related delivery services may not be financed under the Grant, if such goods or persons are carried: (1) on an ocean vessel or aircraft under the flag of a country not, at the time of shipment, identified under the paragraph of the Agreement entitled "Procurement Source: Foreign Exchange Costs", without prior written U.S.A.I.D. approval on a non-U.S. flag air carrier if a U.S. flag carrier is available (in accordance with criteria which may be contained in Project Implementation Letters) without prior written U.S.A.I.D. approval; or (2) on an ocean vessel which U.S.A.I.D., by written notice to the Grantee, has designated as ineligible; or (3) under an ocean vessel or air charter which has not received prior U.S.A.I.D. approval.
- (c) Unless U.S.A.I.D. determines that privately owned United States-flag commercial ocean vessels are not available at fair and reasonable rates for such vessels, (1) at least fifty percent (50%) of the gross tonnage of all goods (computed separately for dry bulk carriers, dry cargo liners and tankers) financed by U.S.A.I.D. which may be transported on ocean vessels will be transported on privately owned United States-flag commercial vessels, and (2) at least fifty percent (50%) of the gross freight revenue generated by all shipments financed by U.S.A.I.D. and transported to the territory of the Grantee on dry cargo lines shall be paid to or for the benefit of privately owned United States-flag commercial vessels. Compliance with the requirements of (1) and (2) of this subsection must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

SECTION C.7. Insurance

- (a) Marine insurance on goods financed by U.S.A.I.D. which are to be transported to the territory of the Grantee may be financed as a Foreign Exchange Cost under this Agreement provided, (1) such insurance is placed at the lowest available competitive rate, and (2) claims thereunder are payable in U.S. dollars or, as U.S.A.I.D. may agree in writing, the currency in which such goods were financed or in any freely convertible currency. If the Grantee (or government of Grantee), by statute, decree, rule, regulation, or practice discriminates with respect to U.S.A.I.D.-financed procurement against any marine insurance company authorized to do business in any State of the United States, then all goods shipped to the territory of the Grantee financed by U.S.A.I.D. hereunder will be insured against marine risks and such insurance will be placed in the United States with a company or companies authorized to do a marine insurance business in a state of the United States.
- (b) Except as U.S.A.I.D. may otherwise agree in writing, the Grantee will insure, or cause to be insured, goods financed under the Grant imported for the Project against risks incident to their transit to the point of their use in the Project; such insurance will be issued on terms and conditions consistent with sound commercial practice and will insure the full value of the goods. Any indemnification received by the Grantee under such insurance will be used to replace or repair any material damage or any loss of the goods insured or will be used to reimburse the Grantee for the replacement or repair of such goods. Any such replacement will be of source and origin of countries listed in U.S.A.I.D. Geographic Code 935 as in effect at the time of replacement, and, except as the Parties may agree in writing, will be otherwise subject to the provisions of the Agreement.

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

Article D: Termination; Remedies

SECTION D.1. Termination. Either Party may terminate this Agreement by giving the other Party thirty (30) days written notice. Termination of this Agreement will terminate any obligations of the Parties to provide financial or other resources to the Project pursuant to this Agreement, except for payment which they are committed to make pursuant to non-cancellable commitments entered into with third parties prior to the termination of this Agreement. In addition, upon such termination U.S.A.I.D. may, at U.S.A.I.D.'s expense, direct that title to goods financed under the Grant be transferred to U.S.A.I.D. if the goods are from a source outside Grantee's country, are in a deliverable state and have not been offloaded in ports of entry of Grantee's country.

SECTION D.2. Refunds

- (a) In the case of any disbursement which is not supported by valid documentation in accordance with this Agreement, or which is not made or used in accordance with this Agreement, or which was for goods or services not used in accordance with this Agreement, U.S.A.I.D., notwithstanding the availability or exercise of any other remedies under this Agreement, may require the Grantee to refund the amount of such disbursement in U.S. Dollars to U.S.A.I.D. within sixty (60) days after receipt of a request therefor.
- (b) If the failure of Grantee to comply with any of its obligations under this Agreement has the result that goods or services financed under the Grant are not used effectively in accordance with this Agreement, U.S.A.I.D. may require the Grantee to refund all or any part of the amount of the disbursements under this Agreement for such goods or services in U.S. Dollars to U.S.A.I.D. within sixty (60) days after receipt of a request therefor.
- (c) The right under subsection (a) or (b) to require a refund of a disbursement will continue, notwithstanding any other provisions of this Agreement, for three (3) years from the date of the last disbursement under this Agreement.
- (d) (1) Any refund under subsection (a) or (b), or (2) any refund to U.S.A.I.D. from a contractor, supplier, bank or third party with respect to goods or services financed under the Grant, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will (A) be made available first for the cost of goods and services required for the Project, to the extent justified, and (B) the remainder, if any, will be applied to reduce the amount of the Grant.
- (e) Any interest or other earnings on Grant funds disbursed by U.S.A.I.D. to the Grantee under this Agreement prior to the authorized use of such funds for the Project will be returned to U.S.A.I.D. in U.S. Dollars by the Grantee.

SECTION D.3. Non-Waiver of Remedies. No delay in exercising any right or remedy occurring to a Party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

SECTION D.4. Assignment. The Grantee agrees, upon request, to execute an assignment to U.S.A.I.D. of any cause of action which may accrue to the Grantee in connection with or arising out of the contractual performance or breach of performance by a party to a direct U.S. Dollar contract with U.S.A.I.D. financed in whole or in part out of funds granted by U.S.A.I.D. under this Agreement.