

File 383-0073

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A.I.D. Loan Number 383-T-028
Project Number 383-0073

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AMENDMENT NUMBER THREE

TO

PROJECT LOAN AGREEMENT

BETWEEN

THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

AND

THE UNITED STATES OF AMERICA

FOR

**MAHAWELI BASIN DEVELOPMENT PHASE II
(MADURU OYA SYSTEM B CONSTRUCTION)**

Dated: March 31, 1983

AMENDMENT NUMBER THREE

TO

PROJECT LOAN AGREEMENT

Dated: March 31, 1983

AMENDMENT NUMBER THREE, between the Democratic Socialist Republic of Sri Lanka ("Cooperating Country") and the United States of America, acting through the Agency for International Development ("A.I.D.");

WHEREAS, the Cooperating Country and A.I.D entered into a Project Loan Agreement for Mahaweli Basin Development Phase II (Maduru Oya-System B Construction) dated May 29, 1981, Amendment Number One dated March 26, 1982, and Amendment Number Two dated September 30, 1982; and

WHEREAS, A.I.D. now desires to loan to the Cooperating Country additional funds for said Project;

NOW, THEREFORE, the Cooperating Country and A.I.D hereby amend said Project Agreement as follows:

1. Article 3: Financing

SECTION 3.1 The Loan. Delete the words "an amount not to exceed Fifty Two Million United States ("U.S.") dollars (\$52,000,000) ("Loan")" and substitute in lieu thereof the words "an amount not to exceed Sixty-eight Million United States ("U.S.") dollars (\$68,000,000) ("Loan")".

Add the following new Section 3.4

"SECTION 3.4 Use of A.I.D Funds. The Cooperating Country agrees that the total amount of \$68,000,000 provided under the loan by this Agreement can be used only for financing the construction cost of Phase 1(a) until such time as the Agreement is amended specifically authorizing the financing of Phase 1(b) construction cost as described in Annex 1."

2. Article 5: Conditions Precedent to Disbursement

Add the following new Section 5.7:

"SECTION 5.7 First Disbursement under Amendment Number Three

"(a) Prior to the first disbursement under Amendment Number Three to this Agreement, or to the issuance by A.I.D of documentation pursuant to which disbursement thereunder will be made, the Cooperating

Country will, except as the Parties may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., and opinion of counsel acceptable to A.I.D that the said Amendment Number Three has been duly authorized and ratified by, and executed on behalf of, the Cooperating Country, and that it and the Agreement as thereby amended constitute valid and legally binding obligations of the Cooperating Country in accordance with all of their terms.

"(b) If the condition specified in this Section has not been met within ninety (90) days from the date of Amendment Number Three, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement, as amended, by written notice to the Cooperating Country. A.I.D. will promptly notify the Cooperating Country when it has determined that the condition precedent specified in this Section has been met."

3. All other terms and conditions of said Project Loan Agreement dated May 29, 1981 as amended by Amendments Number One and Number Two shall remain in full force and effect.

THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

UNITED STATES OF AMERICA

By:

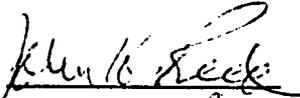


Name: W.M. Tilakaratna

Title: Secretary

Ministry of Finance & Planning

By:



Name: John H. Reed

Title: American Ambassador

CONFORMED COPY

A.I.D. Loan Number 383-T-028B

Project Number 383-0073

AMENDMENT NUMBER TWO

TO

PROJECT

LOAN AGREEMENT

BETWEEN THE

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

AND THE

UNITED STATES OF AMERICA

FOR

**MAHWELI BASIN DEVELOPMENT PHASE II
(MADURU OYA SYSTEM B CONSTRUCTION)**

Date: September 30, 1982.

AMENDMENT NUMBER TWO

DATED September 30, 1982

BETWEEN

The Democratic Socialist Republic of Sri Lanka ("Cooperating Country")

AND

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

WHEREAS, the Cooperating Country and A.I.D. entered into a Project Loan Agreement for Mahaweli Basin Development Phase II (Maduru Oya-System B Construction) dated May 29, 1981 and Amendment Number One dated March 26, 1982; and

WHEREAS, A.I.D. now desires to loan to the Cooperating Country additional funds for said Project,

NOW THEREFORE, the Cooperating Country and A.I.D. hereby amend said Project Agreement as follows:

1. Article 3: Financing

SECTION 3.1 The Loan. ~~Delete the words "not to exceed Fifty Million United States ("U.S.") dollars (\$50,000,000) ("Loan")" and substitute in lieu thereof the words "an amount not to exceed Fifty Two Million United States ("U.S.") dollars (\$52,000,000) ("Loan")".~~

2. Article 5: Conditions Precedent to Disbursement

Add the following new Section 5.6:

"SECTION 5.6. First Disbursement under Amendment Number Two

"(a) Prior to the first disbursement under Amendment Number Two to this Agreement, or to the issuance by A.I.D. of documentation pursuant to which disbursement thereunder will be made, the Cooperating Country will, except as the Parties may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., an opinion of counsel acceptable to A.I.D. that the said Amendment Number Two has been duly authorized and/or ratified by, and executed on behalf of, the Cooperating Country, and that it and the Agreement as thereby amended constitute valid and legally binding obligations of the Cooperating Country in accordance with all of their terms.

"(b) If the condition specified in this Section has not been met within ninety (90) days from the date of Amendment Number Two, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement, as amended, by written notice to the Cooperating Country. A.I.D. will promptly notify the Cooperating Country when it has determined that the condition precedent specified in this Section has been met."

3. All other terms and conditions of said Project Loan Agreement dated May 29, 1981 as amended by Amendment Number One shall remain in full force and effect.

THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

BY: W.M. Tilakaratna
Name: W.M. Tilakaratna
Title: Secretary
Ministry of Finance
and Planning

UNITED STATES OF AMERICA

BY: John H. Reed
Name: John H. Reed
Title: American Ambassador

UNFORMED COPY

A.I.D. Loan Number 383-T-028A

Project Number 383-0073

AMENDMENT NUMBER ONE

TO

PROJECT

LOAN AGREEMENT

BETWEEN THE

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

AND THE

UNITED STATES OF AMERICA

FOR

**MAHAWELI BASIN DEVELOPMENT PHASE II
(MADURU OYA SYSTEM B CONSTRUCTION)**

Date: March 26, 1982

AMENDMENT NUMBER ONE

DATED March 26, 1982

BETWEEN

The Democratic Socialist Republic of Sri Lanka ("Cooperating Country")

AND

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

WHEREAS, the Cooperating Country and A.I.D. entered into a Project Loan Agreement for Mahaweli Basin Development Phase II (Maduru Oya-System B Construction) dated May 29, 1981 and

WHEREAS, A.I.D. now desires to loan to the Cooperating Country additional funds for said Project,

NOW THEREFORE, the Cooperating Country and A.I.D. hereby amend said Project Agreement as follows:

1. Article 3: Financing

SECTION 3.1. The Loan. Delete the words "not to exceed Twenty-five Million United States ("U.S.") dollars (\$25,000,000) ("Loan")" and substitute in lieu thereof the words "an amount not to exceed Fifty Million United States ("U.S.") dollars (\$50,000,000) ("Loan")".

2. Article 5: Conditions Precedent to Disbursement

Add the following new Section 5.5:

"SECTION 5.5. First Disbursement under Amendment Number One

"(a) Prior to the first disbursement under Amendment Number One to this Agreement, or to the issuance by A.I.D. of documentation pursuant to which disbursement thereunder will be made, the Cooperating Country will, except as the Parties may otherwise agree in writing, furnish to A.I.D., in form and substance satisfactory to A.I.D., an opinion of counsel acceptable to A.I.D. that the said Amendment Number One has been duly authorized and/or ratified by, and executed on behalf of, the Cooperating Country, and that it and the Agreement as thereby amended constitute valid and legally binding obligations of the Cooperating Country in accordance with all of their terms.

"(b) If the condition specified in this Section has not been met within ninety (90) days from the date of Amendment Number One, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement, as amended, by written notice to the Cooperating Country. A.I.D. will promptly notify the Cooperating Country when it has determined that the condition precedent specified in this Section has been met."

3. Article 7: Procurement Source

SECTION 7.1. Foreign Exchange Costs

Delete in its entirety the last paragraph starting with the words "Ocean transportation costs" and ending with the words "A.I.D. Geographic Code Book."

4. All other terms and conditions of said Project Loan Agreement dated May 29, 1981 shall remain in full force and effect.

THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

UNITED STATES OF AMERICA

BY:

C. Chandirapal

Name: Chandirapal Chanmugam
Title: Acting Secretary
Ministry of Finance
and Planning

BY:

John H. Reed

Name: John H. Reed
Title: American Ambassador

A.I.D. Loan Number 383-T- 028

Project Number 383-0073

PROJECT
LOAN AGREEMENT
BETWEEN THE
DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
AND THE
UNITED STATES OF AMERICA
FOR
MAHAWELI BASIN DEVELOPMENT PHASE II
(MADURU OYA - SYSTEM B CONSTRUCTION)

Date: May 29, 1981

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PROJECT LOAN AGREEMENT

Dated: May 29, 1981

Between

The Government of the Democratic Socialist Republic of
Sri Lanka ("Cooperating Country")

And

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

Article 1: The Agreement

The purpose of this Agreement is to set out the understandings of the parties named above ("Parties") with respect to the undertaking by the Cooperating Country of the Project described 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 1, will consist of the development within System B of the Accelerated Mahaweli Program along the left bank of the Maduru Oya River by providing an irrigation system, settling families voluntarily and providing appropriate infrastructure. The A.I.D. loan will finance the construction of the main canal and branch canals.

Within the limits of the above definition of the Project, elements of the amplified description stated in Annex 1 may be

changed by written agreement of the authorized representatives of the Parties named in Section 9.2, without formal amendment of this Agreement.

SECTION 2.2. Incremental Nature of Project.

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

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

Article 3: Financing

SECTION 3.1. The Loan. To assist the Cooperating Country to meet the costs of carrying out the Project, A.I.D., pursuant to the Foreign Assistance Act of 1961, as amended, agrees to lend the Cooperating Country under the terms of this Agreement not to exceed Twenty-five Million United States ("U.S.") dollars (\$25,000,000) ("Loan"). The aggregate amount of disbursements under the Loan is referred to as "Principal." The Loan may be used to finance Foreign Exchange costs, as defined in Section 7.1,

and Local Currency Costs, as defined in Section 7.2, of goods and services required for the Project.

SECTION 3.2. Cooperating Country Resources for the Project.

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

(b) The resources provided by the Cooperating Country for the Project will be not less than the equivalent of U.S. \$133,200,000, including costs borne on an "in-kind" basis.

SECTION 3.3. Project Assistance Completion Date.

(a) The "Project Assistance Completion Date" (PACD), which is September 30, 1986, 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 Loan will have been performed and all goods financed under the Loan will have been furnished for the Project as contemplated in this Agreement.

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

(c) Requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation

Letters, are to be received by A.I.D. or any bank described in Section 8.1 no later than nine (9) months following the PACD, or such other period as A.I.D. agrees to in writing. After such period, A.I.D., giving notice in writing to the Cooperating Country, may at any time or times reduce the amount of the Loan by all or any part thereof for which requests for disbursement, accompanied by necessary supporting documentation prescribed in Project Implementation Letters, were not received before the expiration of said period.

Article 4: Loan Terms

SECTION 4.1. Interest. The Cooperating Country will pay to A.I.D. interest which will accrue at the rate of two percent (2%) per annum for ten (10) years following the date of the first disbursement hereunder and at the rate of three percent (3%) per annum thereafter on the outstanding balance of Principal and on any due and unpaid interest. Interest on the outstanding balance will accrue from the date (as defined in Section 8.5) of each respective disbursement, and will be payable semiannually. The first payment of interest will be due and payable no later than six (6) months after the first disbursement hereunder, on a date to be specified by A.I.D.

SECTION 4.2. Repayment. The Cooperating Country will repay to A.I.D. the Principal within forty (40) years from the date of the first disbursement of the Loan in sixty-one (61)

approximately equal semiannual installments of Principal and interest. The first installment of Principal will be payable nine and one-half (9-1/2) years after the date on which the first interest payment is due in accordance with Section 4.1.

A.I.D. will provide the Cooperating Country with an amortization schedule in accordance with this Section after the final disbursement under the Loan.

SECTION 4.3. Application, Currency, and Place of Payment.

All payments of interest and Principal hereunder will be made in U.S. Dollars and will be applied first to the payment of interest due and then to the repayment of Principal. Except as A.I.D. may otherwise specify in writing, payments will be made to the Controller, Office of Financial Management, Agency for International Development, Washington, D.C. 20523, U.S.A., and will be deemed made when received by the Office of Financial Management.

SECTION 4.4. Prepayment. Upon payment of all interest and any refunds then due, the Cooperating Country may prepay, without penalty, all or any part of the Principal. Unless A.I.D. otherwise agrees in writing, any such prepayment will be applied to the installments of Principal in the inverse order of their maturity.

SECTION 4.5. Renegotiation of Terms.

(a) The Cooperating Country and A.I.D. agree to negotiate, at such time or times as either may request, an acceleration of

the repayment of the Loan in the event that there is any significant and continuing improvement in the internal and external economic and financial position and prospects of Sri Lanka, which enable the Cooperating Country to repay the Loan on a shorter schedule.

(b) Any request by either Party to the other to so negotiate will be made pursuant to Section 9.1, and will give the name and address of the person or persons who will represent the requesting Party in such negotiations.

(c) Within thirty (30) days after delivery of a request to negotiate, the requested Party will communicate to the other, pursuant to Section 9.1, the name and address of the person or persons who will represent the requested Party in such negotiations.

(d) The representatives of the Parties will meet to carry on negotiations no later than thirty (30) days after delivery of the requested Party's communication under subsection (c). The negotiations will take place at a location mutually agreed upon by the representatives of the Parties, provided that, in the absence of mutual agreement, the negotiations will take place at the office of the Cooperating Country's Ministry of Finance and Planning in Sri Lanka.

SECTION 4.6. Termination on Full Payment. Upon payment in full of the Principal and any accrued interest, this Agreement and all obligations of the Cooperating Country and A.I.D. under it will cease.

Article 5: Conditions Precedent to Disbursement.

SECTION 5.1. First Disbursement. Prior to the first disbursement under the Loan, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Cooperating Country will, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

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

(b) A statement of the name of the person holding or acting in the office of the Cooperating Country specified in Section 9.2, and of any additional representatives, together with a specimen signature of each person specified in such statements;

(c) An Implementation Plan for the Project; and

(d) Evidence that the Cooperating Country has allocated within its budget for 1982 sufficient funds for the Cooperating Country to finance its contribution to Phase 1(a) of the Project.

SECTION 5.2. Disbursement for Construction. Prior to disbursement under the Loan, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, to

finance construction for the Project, the Cooperating Country will, except as the Parties may otherwise agree in writing, furnish to A.I.D. in form and substance satisfactory to A.I.D.:

(a) A signed contract acceptable to A.I.D., with a firm acceptable to A.I.D., to construct the main and branch canals in Phase 1.(a) of the Project; and

(b) A plan for implementing actions to mitigate negative impacts the Accelerated Mahaweli Program ("A.M.P.") may have on the environment that takes into account the environmental assessment of the A.M.P. financed by A.I.D.

SECTION 5.3. Notification. When A.I.D. had determined that the conditions precedent specified in Section 5.1 and 5.2 have been met, it will promptly notify the Cooperating Country.

SECTION 5.4. Terminal Dates for Conditions Precedent. If all of the conditions specified in Section 5.1 have not been met within 180 days from the date of this Agreement, or such later date as A.I.D. may agree to in writing, A.I.D., at its option, may terminate this Agreement by written notice to the Cooperating Country.

Article 6: Special Covenants

SECTION 6.1. 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 6.2. Work Plan. The Cooperating Country agrees that prior to initiation of work on the Project in calendar year 1982 and in each subsequent year it will provide to A.I.D. a detailed work plan including cost estimates for the work to be accomplished in that year for the Project.

SECTION 6.3. Accounting. The Cooperating Country agrees that it will establish a separate accounting of funds budgeted and expended on the Project.

SECTION 6.4. Reports. The Cooperating Country agrees that it will provide A.I.D. with detailed quarterly reports of progress on the Project and detailed quarterly reports of progress on other works of the Accelerated Mahaweli Program on which the Project depends; e.g., Victoria Dam, Minipe Anicut, the Right Bank transbasin canal, Ulhitiya and Rathkinda Reservoirs, the Maduru Oya link tunnel, and the Maduru Oya dam.

SECTION 6.5. Inspection. The Cooperating Country recognizes that the Project depends on the successful completion

of the other works listed in Section 6.4 and agrees that A.I.D. may from time to time inspect such works and propose reasonable actions to further the implementation of such works.

SECTION 6.6. National Park. The Cooperating Country agrees that it will establish the area south of Maduru Oya dam as a national park and will take such actions as may be necessary to preserve and develop it as a national park.

SECTION 6.7. Other Agreements. The Cooperating Country agrees to consult with A.I.D. prior to entering into any agreement with any other donor or non-Sri Lankan commercial interest which directly relates to the Project.

SECTION 6.8. Land Settlement. The Cooperating Country agrees to develop and implement a program acceptable to A.I.D. to provide settlers in the Project area with full control over their land, including eventual ownership of it. The Cooperating Country agrees to submit to A.I.D. details of the proposed program by January 31, 1982.

SECTION 6.9. Tax Exemption. Notwithstanding the flexibility allowed under the Project Standard Provisions Annex, Section B.4(b), the Cooperating Country agrees and hereby covenants that any contractor, any and all of its personnel, any property or transaction relating to the contract with such contractor, and any commodity procurement transaction financed by the Agreement will be exempt from identifiable taxes, tariffs, duties or other levies imposed under the laws of Sri Lanka provided that any personal articles

imported by contractor personnel will be either re-exported or duty will be paid prior to disposal in Sri Lanka, in accordance with the laws, rules and regulations of the Cooperating Country.

SECTION 6.10. Irrigation System. The Cooperating Country agrees to develop and implement a program acceptable to A.I.D. for the operation, use, and maintenance of the irrigation system in the Project Area, including a program for financing the costs thereof. The Cooperating Country agrees to submit to A.I.D. details of the proposed program by January 31, 1983.

Article 7: Procurement Source

SECTION 7.1. Foreign Exchange Costs. Disbursement pursuant to Section 8.1 will be used exclusively to finance the costs of goods and services required for the Project having their source and origin in countries included in Code 941 of the A.I.D. Geographic Code Book as in effect at the time orders are placed or contracts are entered into for such goods and services ("Foreign Exchange Costs"), except as A.I.D. may otherwise agree in writing, and except as provided in the Project Standard Provisions Annex, Section C.1(b) with respect to marine insurance.

Ocean transportation costs will be financed under the Loan only on vessels under flag registry of the United States or Sri Lanka, except as A.I.D. may otherwise agree in writing. If A.I.D. determines either that there are no vessels under flag registry of Sri Lanka generally available for ocean transportation, or that Sri Lanka has no access to U.S. flag service, A.I.D. in a Project Implementation Letter may agree to finance under the Loan ocean transportation costs on vessels under flag registry of any country included in Code 941 of the A.I.D. Geographic Code Book.

SECTION 7.2. Local Currency Costs. Disbursements pursuant to Section 8.2 will be used exclusively to finance the costs of goods and services required for the Project having their source and, except as A.I.D. may otherwise agree in writing, their origin in Sri Lanka ("Local Currency Costs").

Article 8: Disbursements

SECTION 8.1. Disbursements for Foreign Exchange Costs.

(a) After satisfaction of conditions precedent, the Cooperating Country may obtain disbursements of funds under the Loan 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 A.I.D., with necessary supporting documentation as prescribed in Project Implementation Letters, (A) requests for reimbursement for such goods or services, or (B) requests for A.I.D. to procure commodities or services on the Cooperating Country's behalf for the Project; or

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

(b) Banking charges incurred by the Cooperating Country in connection with Letters of Commitment and Letters of Credit will

be financed under the Loan unless the Borrower instructs A.I.D. to the contrary. Such other charges as the Parties may agree to may also be financed under the Loan.

SECTION 8.2. Disbursement for Local Currency Costs.

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

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

- (1) acquisition by A.I.D. with U.S. dollars by purchase; or
- (2) A.I.D. requesting the Cooperating Country to make available the local currency for such costs and thereafter reimbursing an amount of U.S. dollars equal to the amount of local currency made available by the Cooperating Country.

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

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

SECTION 8.5. Date of Disbursement. Disbursements of the Loan by A.I.D. will be deemed to occur (a) on the date on which A.I.D. makes a disbursement to the Cooperating Country or its designee, or to a bank, contractor or supplier pursuant to a Letter of Commitment, contract or purchase order; or (b) on the date on which A.I.D. disburses to the Cooperating Country or its designee local currency acquired in accordance with Section 8.2.(b)(1) or U.S. dollars for reimbursement of the Cooperating Country in accordance with Section 8.2.(b)(2).

Article 9: Miscellaneous

SECTION 9.1. Communications. Any notice, request, document or other communication submitted by either Party to the other under this Agreement will be in writing or by telegram or cable, and will be deemed duly given or sent when delivered to such Party at the following address:

To the Cooperating Country:

Mail Address: External Resources Department
Ministry of Finance & Planning
2nd Floor, Ceylinco House
Colombo 1, Sri Lanka

Alternate address for telegrams: FORAID
Colombo, Sri Lanka

To A.I.D.:

Mail Address: Mission Director
USAID
c/o American Embassy
Colombo 3, Sri Lanka

Alternate address for telegrams: USAID
AMEmbassy
Colombo, Sri Lanka

All such communications will be in English unless the Parties otherwise agree in writing. Other addresses may be substituted for the above upon the giving of notice.

SECTION 9.2. Representatives. For all purposes relevant to this Agreement, the Borrower will be represented by the individual holding or acting in the Office of the Director, Department of External Resources, Ministry of Finance and Planning, and A.I.D. will be represented by the individual holding or acting in the Office of Director, USAID Mission to Sri Lanka, 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 to the amplified description in Annex 1. The names of the representatives of the Cooperating Country with specimen signatures will be provided to A.I.D. which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

SECTION 9.3. Standard Provisions Annex. A "Project Standard Provisions Annex" (Annex 2) is attached to and forms part of this Agreement.

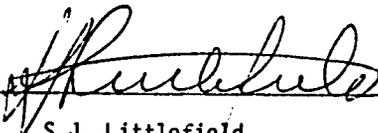
SECTION 9.4. Investment Guaranty Project Approval. Construction work to be financed under this Agreement is agreed to be a project approved by the Cooperating Country pursuant to the agreement between the Parties on the subject of investment guaranties, and no further approval by the Cooperating Country will be required to permit the United States to issue investment guaranties under that agreement covering a contractor's investment in that project.

IN WITNESS WHEREOF, the Cooperating Country 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.

DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

By: 
Name: W.M. Tilakaratna
Title: Secretary, Ministry of Finance & Planning

UNITED STATES OF AMERICA

By: 
Name: S.J. Littlefield
Title: Mission Director, United States Agency for International Development, Sri Lanka

MAHAWELI BASIN DEVELOPMENT PHASE II
AMPLIFIED PROJECT DESCRIPTION

A. THE ACCELERATED MAHAWELI PROGRAM

The Accelerated Mahaweli Program ("AMP") is a priority economic development program of the Government of Sri Lanka. The program includes the construction of major dams along the Mahaweli River and its tributaries to provide hydropower. The dams and other works will bring water to parts of Sri Lanka's dry zone for irrigated food crop production on small farms to be voluntarily settled by landless or land poor farmers from all areas of the country. The goal of the program is to increase equitable economic development, employment, food production, and hydropower capacity. The Mahaweli Basin Phase II project is a component of this overall program.

B. THE PROJECT

1. Purpose: The purpose of this project is to develop that area of System B of the AMP lying along the left bank of the Maduru Oya including land areas designated as Zones 1,2,3,5 and part of 4 up to approximately km. 57 of the main canal ("Project Area"). Under the project, the Project Area will be developed as follows: irrigable lowlands will be developed for paddy cultivation in one hectare farms which, along with .3 hectare homesteads, will be provided to voluntarily settled landless and land poor farmers; irrigable uplands will be developed as small farms growing food crops to be determined; and social and agricultural infrastructure will be provided.

2. The End of Project Status will include the following (all numbers are approximate):

(a) 20,300 hectares of net irrigable paddy land will be cultivated;

(b) 20,300 families will cultivate the above land;

(c) 5,300 non-farm families will be settled in the project area;

(d) The annual average income of farm families will exceed Rs.11,000 in 1980 prices;

(e) A functioning irrigation system will serve the irrigable lands;

(f) All social infrastructure will be in place to serve the settlers (roads, schools, etc.); and

(g) Annual paddy production in the project area will exceed 106,000 tons/year.

3. Outputs

The estimated magnitude of project outputs as well as some basic data about the project area is indicated for both total project and for Phases 1(a) and 1(b) in Table 1. The 57 km. of main canal and 98 km. of branch canals, together with 640 km. of tertiary canal system and 490 km. of drains will be constructed to provide irrigation water for 20,300 ha. of paddy rice land. A road network of 729 km. of access, primary, irrigation, link and within-settlement roads will be constructed. On-farm development consists of preparing 20,300 ha. of land for the settlers by land clearing and levelling, etc. The social infrastructure will be provided through a system of two townships (serving about 10,000 families each), consisting of 15 block centers (serving about 2,000 families each) which are composed of a total of about 130 hamlets (about 200 families each). Each township is to be provided with a senior secondary school, a 36-bed hospital, a post office, a police station, a market and administrative complex, and telecommunication services. Each block center will be provided with a junior secondary school, a visiting dispensary, a sub-post office, a public health unit, and stores for agricultural inputs and produce. Each hamlet will be provided with a primary school, a health volunteer, a post box, and a unit service center.

4. Inputs

The A.I.D. loan will finance the construction of the main and branch canals up to the amount of funds available in the A.I.D. Loan. The Cooperating Country and other donors will finance all other costs necessary to obtain the outputs described above and listed in Table 1. The Cooperating Country may apply funds from the A.I.D. Loan 383-T-029 Mahaweli Sector Support, to finance a portion of these costs provided that the total assistance from A.I.D. does not exceed 75% of total project costs.

C. PROJECT IMPLEMENTATION

Main and branch canals will be constructed by a U.S. firm under contract to the Cooperating Country according to A.I.D. regulations. The U.S. firm will be permitted to subcontract elements of the construction work.

Roads, the tertiary irrigation and drainage system, building, and land development will be undertaken by Sri Lankan firms and worker-settlers following Government of Sri Lanka procedures.

Settlers will be selected by local government authorities following the guidelines of and with the assistance of the Mahaweli Authority of Sri Lanka ("MASL").

Settlers' support will be provided by the Mahaweli Economic Agency ("MEA") and the staff of other ministries.

D. PROJECT MANAGEMENT

The project will be implemented by the Mahaweli Authority of Sri Lanka (MASL) primarily through the Mahaweli Development Board (MDB).

Under the overall guidance of the Ministry for Mahaweli Development and MASL, the MDB will be responsible for project construction and maintenance, while the MASL itself or an agency functioning under it will be responsible for settler support, welfare, and production. MDB and the MASL or an agency functioning under it will each designate one individual in the field who will be responsible for field work and one individual at headquarters whose sole responsibilities will be to coordinate all activities which must take place to complete this project.

E. IMPLEMENTATION SCHEDULE

The Project is scheduled to be completed in 1986. It will be implemented in two phases. Phase 1(a) includes the development of zones one and five of System B including the construction of the main left bank canal up to approximately km. 23.5. Construction of the main and branch canals in this area is expected to be completed by April 1984 and all other works necessary so that all irrigable land in this area can be cultivated in the Maha 1984/1985 season will be completed in 1984. Worker-settlers are expected to be brought into this area beginning in 1982 and all settler families are to be settled prior to the start of the Maha 1984/1985 cultivation season.

Phase 1(b) of the project includes the development of zones two, three, and that part of zone four served by the main left bank canal up to about km. 55 including construction of main canal up to km. 55 and its related branch canals. All work, including settlement of families in this area of the project, necessary to enable production on all the irrigable area is scheduled for completion prior to the beginning of the Maha 1986/1987 cultivation season.

F. FINANCIAL PLAN

By this loan agreement, A.I.D. is providing a loan of \$25,000,000. A.I.D. intends to provide an additional \$60,000,000 in loan funds in future years subject to the availability of funds to A.I.D. for this purpose and mutual agreement of the Parties at the time to proceed. In addition, the provision of loan funds for work in Phase 1(b) is also subject to satisfactory review by A.I.D. of the progress of those parts in Phase 1 (a) of the Project being financed by the Cooperating Country and the availability of Cooperating Country's financing for the total project. The additional funds will be provided in subsequent years by amendments to this Project Loan Agreement.

By this Project Agreement, the Cooperating Country agrees to provide contributions from its own sources and from other donors, including A.I.D. Loan 383-T-029, of not less than the equivalent of \$133,200,000 on an annual basis as estimated in Table 4. After review of the Implementation Plan to be prepared in accordance with Section 5.1(c), the Parties may find it appropriate to revise the Financial Plan (Tables 2 and 3) and the Projection of Expenditures (Table 4).

Table 3, attached, is the Summary Cost Estimate and Financial Plan for the project. The following adjustments may be made without formal amendment of this Amplified Project Description: (1) all of the A.I.D. loan may be used for main and branch canal construction; (2) up to 30% of funds for individual line items of infrastructure work may be changed to other line items; and (3) unlimited adjustment of funds between foreign exchange and local currency costs may be made.

G. EVALUATION

Annual project evaluations will be carried out under the auspices of the Project's Coordinating Committee which has already been established. These evaluations will include both a general review of the settlement situation by a consultant A.I.D. may finance, as well as a review of other important elements of the project by the Coordinating Committee (augmented by additional staff of those organizations on the Committee and consultants as necessary). Baseline data exists on all elements of the project except on settlers to be selected from outside the project area. MASL and A.I.D. will collect baseline data on these settlers after they are selected. Project monitoring by MASL, MDB, MEA, and A.I.D. will be augmented by the addition of two field staff who will focus on settler concerns and follow progress of selected individual settler families.

TABLE I

PROJECT AREA BASIC DATA AND OUTPUTS

<u>Basic Data</u>	<u>Phase 1 (a)</u> <u>Zones 1 & 5</u>	<u>Phase 1 (b)</u> <u>Zones 2, 3 & 4</u>	<u>Total</u>
Project Area ha.	27,700	47,100	74,800
Farm Land (paddy) ha.	7,610	12,701	20,311
Farm Families (paddy)	7,610	12,701	20,311
Farm Population	41,850	69,840	111,690
Non-Farm Population	11,060	18,030	29,090
<u>Estimated Outputs</u>			
<u>AID Loan Financed</u>			
Main Canals km.	25.5	31.5	57
Branch Canals km.	45.3	52.7	98
<u>GSL - Other Financing</u>			
Tertiary System km.	219	421	640
Roads km.	280	449	729
Access km.	(58)	(92)	(150)
Primary km.	(35)	(55)	(90)
Irrigation km.	(19)	(31)	(50)
Link km.	(53)	(86)	(139)
Within Settlement km.	(115)	(185)	(300)
Drains km.	147	343	490
On-Farm Development ha.	7610	12,701	20,311
<u>Social Infrastructure</u>			
Townships	1	1	2
Block Centers	4	11	15
Hamlets	36	94	130
Sr. Secondary School	1	1	2
Hospital	1	1	2
Post Office	1	1	2
Market	1	1	2
Adm. Complex	1	1	2
Telecommunications	1	1	2
Jr. Secondary School	4	11	15
Dispensary	4	11	15
Sub-Post Office	4	11	15
Stores (Agri Supplies)	4	11	15
Primary Schools	36	94	130
Unit Service Centers	36	94	130

TABLE 2

MAHAWELI BASIN DEVELOPMENT PHASE IIFINANCIAL PLAN BY PHASES^{1/}

	<u>US \$ Millions</u>		
	<u>Phase 1(a)</u> <u>Zones 1 & 5</u>	<u>Phase 1(b)</u> <u>Zones 2,3 & 4</u>	<u>Total</u>
<u>Canals</u>			
Main Canals	21.3	14.9	36.2
Branch Canals	<u>9.2</u>	<u>10.8</u>	<u>20.0</u>
Sub-total	30.5	25.7	56.2
Inflation	9.6	16.8	26.4
Contingency	<u>4.0</u>	<u>4.2</u>	<u>8.2</u>
Total Main and Branch Canals	44.1	46.7	90.8
	***	*****	*****
<u>Infrastructure Works</u>			
Tertiary System	6.0	11.5	17.5
Roads	5.9	10.0	15.9
Drains	.9	1.7	2.6
Settlement	5.2	5.2	10.4
On-Farm Development	3.5	6.7	10.2
Social Infrastructure	3.4	5.5	8.9
Overheads	<u>.7</u>	<u>3.6</u>	<u>4.3</u>
Sub-total	25.6	44.2	69.8
Inflation	11.0	35.4	46.4
Contingency	<u>3.6</u>	<u>7.6</u>	<u>11.2</u>
Total Infrastructure Works	40.2	87.2	127.4
	*****	*****	*****
Grand Total	<u>84.3</u>	<u>133.9</u>	<u>218.2</u>

1/ 1980 base year with inflation based on 10% FX costs and 15% local costs per year.

MAHAWELI BASIN DEVELOPMENT PHASE II
SUMMARY COST ESTIMATE AND FINANCIAL PLAN^{1/}
 (US \$ Millions)

TABLE 3

Item	AID Loan		Cooperating ^{2/} Country		Other ^{3/} Donors	Total
	FX	LC ^{6/}	FX	LC ^{6/}	FX	
Canal Work						
Main Canals	22.4	13.8				36.2
Branch Canals	12.7	7.3				20.0
Sub-total	35.1	21.1				56.2
Inflation ^{4/}	13.6	7.0		5.8		26.4
Contingency ^{5/}	4.8	3.4				8.2
Total - Canal Work	53.5	31.5				90.8
Infrastructure Work						
Tertiary System			11.2	6.3		17.5
Roads				10.9	5.0	15.9
Drains			1.8	.8		2.6
Settlement				10.4		10.4
On-Farm Development			6.3	3.9		10.2
Social Infrastructure				8.9		8.9
Overheads				4.3		4.3
Sub-total			19.3	45.5	5.0	69.8
Inflation ^{4/}			9.7	36.7	-	46.4
Contingency ^{5/}			3.0	8.2	-	11.2
Total - Infrastructure			32.0	90.4	5.0	127.4
Grand Total	53.5	31.5	32.0	96.2	5.0	218.2

1/ Excludes \$10 million AID loan for design and supervision of construction of Main and Branch canals, plus technical assistance.

2/ The AID loan for Mahaweli Sector Support may be used to finance a portion of the Cooperating Country's contributions, subject to the limitation that the combined total of Cooperating Country and other donor contributions must equal at least 25% of total project costs. Cooperating country's contribution for main and branch canals depends on amount cost exceeds amount available from AID loan.

3/ The portion of Asian Development Bank loan used for road construction in the project area.

4/ Inflation at 10% of foreign exchange (FX) costs and 15% of local costs (LC).

5/ Contingency at approximately 10%.

6/ Local currency costs were converted into dollar equivalent at exchange rate of Rs.16 = U.S.\$1.

TABLE 4

MAHAWELI BASIN DEVELOPMENT PHASE II
PROJECTION OF EXPENDITURES BY CALENDAR YEAR

(\$ Million)

	<u>AID Loan</u>			<u>Cooperating Country</u>			<u>Total</u>			<u>Total</u> ^{2/} <u>Rupees</u> <u>(Million)</u>
	<u>FX</u>	<u>LC</u>	<u>Total</u>	<u>FX</u>	<u>LC</u>	<u>Total</u>	<u>FX</u>	<u>LC</u>	<u>Total</u>	
1982	14.8	10.4	25.2	2.0	9.5 ^{1/}	11.5	16.8	19.9	36.7	629.2
1983	10.8	8.1	18.9	8.5	21.1 ^{1/}	29.6	19.3	29.2	48.5	824.2
1984	14.1	9.3	23.4	6.1	19.3	25.4	20.2	28.6	48.8	831.3
1985	13.8	3.7	17.5	7.7	28.3	36.0	21.5	32.0	53.5	909.8
1986	-	-	-	7.7	23.0	30.7	7.7	23.0	30.7	510.5
TOTAL	53.5	31.5	85.0	32.0	101.2	133.2	85.5	132.7	218.2	3705.0

1/ Includes \$5.0 million (\$2.5 million each year) estimated ADB road contribution.

2/ Total costs converted into rupee equivalents at rate of Rs.18.5 = U.S.\$1 for foreign exchange costs and Rs.16 = US\$1 for local currency costs.

Standard Project Agreement
Provisions Annex

Definitions: As used in this Annex, the "Agreement" refers to the Project 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. "Cooperating country" is the Government of the Democratic Socialist Republic of Sri Lanka ("Borrower" and/or "Grantee" as appropriate).

Article A: PROJECT IMPLEMENTATION LETTERS. To assist the Cooperating Country in the implementation of the Project, A.I.D., from time to time, will issue Project Implementation Letters that will furnish additional information about matters stated in this Agreement. The Parties may also use jointly agreed-upon Project Implementation Letters to confirm and record their mutual understanding on aspects of the implementation of this Agreement. Project Implementation Letters will not be used to amend the text of the Agreement, but can be used to record revisions or exceptions which are permitted by the Agreement, including the revision of elements of the amplified description of the Project in Annex 1.

Article B: GENERAL COVENANTS

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

SECTION B.2. Execution of Project. The Cooperating Country will:

(a) carry out the Project or cause it to be carried out with due diligence and efficiency, in conformity with sound technical, financial, and management practices, and in conformity with those documents, plans, specifications, contracts, schedules or other arrangement, and with any modifications therein, approved by A.I.D. pursuant to this Agreement;
and

(b) provide qualified and experienced management for, and train such staff as many 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 Assistance will, unless otherwise agreed in writing by A.I.D., be devoted to the Project until the completion of the Project, and thereafter will be used so as to further the objectives sought in carrying out the Project.

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

SECTION B.4. Taxation. (a) This agreement, and the Assistance will be free from, and the Principal and interest will be paid free from, any taxation or fees imposed under laws in effect in the territory of the Cooperating Country.

(b) To the extent that (1) any contractor, including any consulting firm, any personnel of such contractor financed under the Assistance, and any property or transaction relating to such contracts and (2) any commodity procurement transaction financed under the Assistance, are not exempt from identifiable taxes, tariffs, duties or other levies imposed under laws in the territory of the Cooperating Country, the Cooperating Country 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 Assistance.

SECTION B.5. Reports, Records, Inspections, Audit. The Cooperating Country will:

(a) furnish A.I.D. such information and reports relating to the Project and to this Agreement as A.I.D. may reasonably request;

(b) maintain or cause to be maintained, in accordance with generally accepted accounting principles and practices consistently applied, books and records relating to the Project and to this Agreement, adequate to show, without limitation, the receipt and use of goods and services acquired under the Assistance. Such books and records will be audited regularly, in accordance with generally accepted auditing standards, and maintained for three years after the date of last disbursement by A.I.D., such books and records will also be adequate to show the nature and extent of solicitations of prospective suppliers of goods and services acquired, the basis of award of contracts and orders, and the overall progress of the Project toward completion; and

(c) afford authorized representatives of a 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 Assistance.

SECTION B.6. Completeness of Information. The Cooperating Country confirms:

(a) that the facts and circumstances of which it has informed A.I.D. or caused A.I.D. to be informed, in the course or reaching agreement with A.I.D. on the Assistance, are accurate and complete, and include all facts and circumstances that might materially affect the Project and the discharge of responsibilities under this Agreement, and

(b) that it will inform A.I.D. in timely fashion of any subsequent facts and circumstances that might materially affect, or that it is reasonable to believe might so affect, the Project or the discharge of responsibilities under this Agreement.

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

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

Article C: PROCUREMENT PROVISIONS

SECTION C.1. Special Rules

(a) The source and origin of ocean and air shipping will be deemed to be the ocean vessel's or aircraft's country of registry at the time of shipment.

(b) Premiums for marine insurance placed in the territory of the Cooperating Country will be deemed an eligible Foreign Exchange Cost, if otherwise eligible under Section C.7 (a).

(c) Any motor vehicles financed under the Assistance will be of United States manufacture, except as A.I.D. may otherwise agree in writing.

SECTION C.2. Eligibility Date. No goods or services may be financed under the Assistance which are procured pursuant to orders or contracts firmly placed or entered into prior to 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 Cooperating Country will furnish to 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 Assistance, 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 A.I.D. on preparation;

(2) such documentation will also be furnished to A.I.D., upon preparation, relating to any goods or services which, though not financed under the Assistance, are deemed by 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 proposals for goods and services financed under the Assistance will be approved by 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 Assistance 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 A.I.D. in writing prior to execution of the contract. Material modifications in such contracts will also be approved in writing by A.I.D. prior to execution; and

(d) Consulting firms used by the Cooperating Country for the Project but not financed under the Assistance, the scope of their services and such of their personnel assignment to the Project as A.I.D. may specify, and construction contractors used by the Cooperating Country for the Project but not financed under the Assistance shall be acceptable to 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 Assistance. Such items will be procured on a fair and, to the maximum extent practicable, on a competitive basis.

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

SECTION C.6. Shipping.

(a) Goods which are to be transported to the territory of the Cooperating Country may not be financed under the Assistance if transported either: (1) on an ocean vessel or aircraft under the flag of a country which is not included in A.I.D. Geographic Code 935 as in effect at the time of shipment; or (2) on an ocean vessel which A.I.D., by written notice to the Cooperating Country, has designated as ineligible; or (3) under an ocean or air charter which has not received prior 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 Assistance, if such goods or persons are carried: (1) on an ocean vessel under the flag of a country not, at the time of shipment, identified under the paragraph of the Agreement entitled "Procurement Source: Foreign Exchange Costs" without prior written A.I.D. approval; or (2) on an ocean vessel which A.I.D., by written notice to the Cooperating Country, has designated as ineligible; or (3) under an ocean vessel or air charter which has not received prior A.I.D. approval.

(c) Unless 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 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 A.I.D. and transported to the territory of the Cooperating Country on dry cargo liners shall be paid to or for the benefit of privately-owned United States-flag commercial vessels. Compliance with the requirements of (1) and (2) of this subsection must be achieved with respect to both any cargo transported from U.S. ports and any cargo transported from non-U.S. ports, computed separately.

SECTION C.7. Insurance.

(a) Marine insurance on goods financed by A.I.D. which are to be transported to the territory of the Cooperating Country may be financed under the Assistance, as a Foreign Exchange Cost under this Agreement provided (1) such insurance is placed at the lowest available competitive rate, and (2) claims thereunder are payable in the currency in which such goods were financed or in any freely convertible currency. If the government of the Cooperating Country, by statute, decree, rule, regulation or practice discriminates with respect to A.I.D.-financed procurement against any marine insurance company authorized to do business in any State of the United States, than all goods shipped to the territory of the Cooperating Country financed by 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 A.I.D. may otherwise agree in writing, the Cooperating Country will insure, or cause to be insured, goods financed under the Assistance imported for the Project against risks incident to their transit to the point of their use in the Project; such insurance will be issued on terms and conditions consistent with sound commercial practice and will insure the full value of the goods. Any Indemnification received by the Cooperating Country such insurance will be used to replace or repair any material damage or any loss of the goods insured or will be used to reimburse the Cooperating Country for the replacement or repair of such goods. Any such replacement will be of source and origin of countries listed in 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 Cooperating Country agrees that wherever practicable United States Government-owned excess personal property, in lieu of new items financed under the Assistance should be utilized. Funds under the Assistance may be used to finance the costs of obtaining such property for the Project.

Article D: REFUNDS; NONWAIVER OF REMEDIES

SECTION D.1. 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, A.I.D., notwithstanding the availability or exercise of any other remedies provided for under this Agreement, may require the Cooperating Country to refund the amount of such disbursement in U.S. Dollars to A.I.D. within sixty days after receipt of a request therefor.

(b) If the failure of the Cooperating Country to comply with any of its obligations under this Agreement has the result that goods or services financed under the Assistance are not used effectively in accordance with this Agreement, A.I.D. may require the Cooperating Country to refund all or any part of the amount of the disbursements under this Agreement for such goods or services in U.S. dollars to A.I.D. within sixty days after receipt of a request therefor.

(c) The right under subsection (a) or (b) to require such a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three years from the date of the last disbursement under this Agreement.

(d) (1) Any refund under subsection (a) or (b), or (2) any refund to A.I.D. from a contractor, supplier, bank or other third party with respect to goods or services financed under the Assistance, which refund relates to an unreasonable price for or erroneous invoicing of goods or services, or to goods that did not conform to specifications, or to services that were inadequate, will (A) be made available first for the cost of goods and services required for the Project, to the extent justified, and (B) the remainder, if any, will be applied (i) if in connection with a Grant, to reduce the amount of the Grant, or (ii) if in connection with a loan, to the installments of Principal in the inverse order of their maturity and the amount of the Loan reduced by the amount of such remainder.

SECTION D.2. Nonwaiver of Remedies. No delay in exercising any right or remedy accruing to a Party in connection with its financing under this Agreement will be construed as a waiver of such right or remedy.

Article E: ADDITIONAL PROVISIONS (Grant Assistance Only)

SECTION E.1. Termination. Either Party may terminate this Agreement by giving the other Party 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 A.I.D. may, at A.I.D.'s expense, direct that title to goods financed under the Grant be transferred to A.I.D. if the goods are from a source outside Cooperating Country, are in a deliverable state and have not been off-loaded in ports of entry of Cooperating Country.

SECTION E.2. Interest on Funds

Any interest or other earnings on Grant funds disbursed by A.I.D. to the Cooperating Country under this Agreement prior to the authorized use of such funds for the Project will be returned to A.I.D. in U.S. Dollars by the Grantee.

SECTION E.3. Air Transportation

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 E.4. Assignment

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

Article F: TERMINATION; Remedies (Loans only)

SECTION F.1. Cancellation by Cooperating Country. The Cooperating Country may, by giving A.I.D. 30 days written notice, cancel any part of the Loan which has not been disbursed or committed for disbursement to third parties.

SECTION F.2. Events of Default: Acceleration. It will be an "Event of Default" if the Cooperating Country shall have failed: (a) to pay when due any interest or installment of principal required under this Agreement, or (b) to comply with any other provisions of this Agreement, or (c) to pay when due any interest or installment of principal or other payment required under any other loan, guaranty or other agreement between the Cooperating Country or any of its agencies and A.I.D. or any of its predecessor agencies. If an Event of Default shall have occurred, then A.I.D. may give the Cooperating Country notice that all or any part of the unrepaid Principal will be due and payable sixty (60) days thereafter, and, unless such Event of Default is cured within that time:

- (1) such unrepaid Principal and accrued interest hereunder will be due and payable immediately, and
- (2) the amount of any further disbursements made pursuant to then outstanding commitments to third parties or otherwise will become due and payable as soon as made.

SECTION F.3. Suspension. If at any time:

- (a) An Event of Default has occurred; or
- (b) An event occurs that A.I.D. determines to be an extraordinary situation that makes it improbable either than the purpose of the Assistance will be attained or that the Cooperating Country will be able to perform its obligations under this Agreement; or
- (c) Any disbursement by A.I.D. would be in violation of the legislation governing A.I.D.; or
- (d) The Cooperating Country shall have failed to pay when due any interest, installment of principal or other payment required under any other loan, guaranty, or other agreement between the Cooperating Country or any of its agencies and the Government of the United States or any of its agencies;

Then A.I.D. may:

- (1) suspend or cancel outstanding commitment documents to the extent they have not been utilized through irrevocable commitments to third parties or otherwise, giving prompt notice thereof to the Cooperating Country;

- (2) decline to issue additional commitment documents or to make disbursement other than under existing ones; and
- (3) at A.I.D.'s expense, direct that title to goods financed under the Assistance be transferred to A.I.D. if the goods are from a source outside Sri Lanka, are in a deliverable state and have not been offloaded in ports of entry of Sri Lanka. Any disbursement made under the Loan with respect to such transferred goods will be deducted from Principal.

SECTION F.4. Cancellation by A.I.D. If, within sixty (60) days from the date of any suspension of disbursements pursuant to Section F.3., the cause or causes thereof have not been corrected, A.I.D. may cancel any part of the Assistance that is not then disbursed or irrevocably committed to third parties.

SECTION F.5. Continued Effectiveness of Agreement. Notwithstanding any cancellation, suspension of disbursement, or acceleration of repayment, the provisions of this Agreement will continue in effect until the payment in full of all Principal and accrued interest hereunder.