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IN FOUR PARTS

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The Act approved September 23, 1950, Ch. 1001, § 2, 64 Stat. 979, 1 U.S.C. § 112a, provides in part as follows:

"...United States Treaties and Other International Agreements shall be legal evidence of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and agreements, therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States."

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INTERNATIONAL ENERGY AGENCY

IMPLEMENTING AGREEMENT
FOR A PROGRAMME OF RESEARCH, DEVELOPMENT AND DEMONSTRATION ON GEOTHERMAL EQUIPMENT

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INTERNATIONAL ENERGY AGENCY

IMPLEMENTING AGREEMENT FOR A PROGRAMME OF RESEARCH, DEVELOPMENT AND DEMONSTRATION ON GEOTHERMAL EQUIPMENT

The Contracting Parties

CONSIDERING that the Contracting Parties, being either governments of International Energy Agency ("Agency") countries, governments of other countries invited by the Governing Board of the Agency to be Contracting Parties, international organizations or parties designated by their respective governments, wish to take part in the establishment and operation of a Programme of Research, Development and Demonstration on Geothermal Equipment (the "Programme") as provided in this Agreement;

CONSIDERING that the Contracting Parties which are governments of Agency Countries and the governments of Agency Countries which have designated Contracting Parties (referred to collectively as the "Governments") have agreed in Article 41 of the Agreement on an International Energy Program[1] (the "I.E.P. Agreement") to undertake national programmes in the areas set out in Article 42 of the I.E.P. Agreement, including energy research and development, and have referred in Chapter IV of the Long-Term Co-operation Programme, adopted by the Governing Board of the Agency on 30th January, 1976,[2] to the establishment of a co-operative programme on Geothermal Energy;

CONSIDERING that in the Governing Board of the Agency on 15th December, 1978, the Governments approved the Programme as a special activity under Article 65 of the I.E.P. Agreement;

CONSIDERING that the Agency has recognized the establishment of the Programme as an important component of international co-operation in the field of geothermal energy research and development;

HAVE AGREED as follows:

Article 1

OBJECTIVES

(a) *Scope of Activity.* The Programme to be carried out by the Contracting Parties within the framework of this Agreement shall consist of co-operative research, development, demonstrations and exchanges of information regarding geothermal equipment.

[1] Done Nov. 18, 1974. TIAS 8278; 27 UST 1708.
[2] TIAS 8229; 27 UST 243.

(b) *Method of Implementation.* The Contracting Parties shall implement the Programme by undertaking one or more tasks (the "Task" or "Tasks") each of which will be open to participation by two or more Contracting Parties as provided in Article 2 hereof. The Contracting Parties which participate in a particular Task are, for the purposes of that Task, referred to in this Agreement as "Participants".

(c) *Task Co-ordination and Co-operation.* The Contracting Parties shall co-operate in co-ordinating the work of the various Tasks and shall endeavour, on the basis of an appropriate sharing of burdens and benefits, to encourage co-operation among Participants engaged in the various Tasks with the objective of advancing the research and development activities of all Contracting Parties in the field of geothermal equipment.

Article 2

IDENTIFICATION AND INITIATION OF TASKS

(a) *Identification.* The Tasks undertaken by Participants are identified in the Annexes to this Agreement. At the time of signing this Agreement, each Contracting Party shall confirm its intention to participate in one or more Tasks by giving the Executive Director of the Agency a Notice of Participation in the relevant Annex or Annexes and the Operating Agent for each Task shall give the Executive Director of the Agency a Notice of Acceptance of the Task Annex. Thereafter, each Task shall be carried out in accordance with the procedures set forth in Articles 2 to 11 hereof, unless otherwise specifically provided in the applicable Annex.

(b) *Initiation of Additional Tasks.* Additional Tasks may be initiated by any Contracting Party according to the following procedure:

(1) A Contracting Party wishing to initiate a new Task shall present to one or more Contracting Parties for approval a draft Annex, similar in form to the Annexes attached hereto, containing a description of the scope of work and conditions of the Task proposed to be performed;

(2) Whenever two or more Contracting Parties agree to undertake a new Task, they shall submit the draft Annex for approval by the Executive Committee pursuant to Article 3 *(e)* (2) hereof; the approved draft Annex shall become part of this Agreement; Notice of Participation in the Task by Contracting Parties and acceptance by the Operating Agent shall be communicated to the Executive Director in the manner provided in paragraph *(a)* above;

(3) In carrying out the various Tasks, Participants shall co-ordinate their activities in order to avoid duplication of activities.

(c) *Application of Task Annexes.* Each Annex shall be binding only upon the Participants therein and upon the Operating Agent for that Task, and shall not affect the rights or obligations of other Contracting Parties.

Article 3

THE EXECUTIVE COMMITTEE

(a) *Supervisory Control.* Control of the Programme shall be vested in the Executive Committee constituted under this Article.

(b) *Membership.* The Executive Committee shall consist of one member designated by each Contracting Party; each Contracting Party shall also designate an alternate member to serve on the Executive Committee in the event that its designated member is unable to do so.

(c) *Responsibilities.* The Executive Committee shall:

(1) Adopt for each year, acting by unanimity, the Programme of Work, and Budget if foreseen, for each Task, together with an indicative Programme of Work and Budget for the following two years; the Executive Committee may, as required, make adjustments within the framework of the Programme of Work and Budget;

(2) Make such rules and regulations as may be required for the sound management of the Tasks, including financial rules as provided in Article 6 hereof;

(3) Carry out the other functions conferred upon it by this Agreement and the Annexes hereto; and

(4) Consider any matters submitted to it by any of the Operating Agents or by any Contracting Party.

(d) *Procedure.* The Executive Committee shall carry out its responsibilities in accordance with the following procedures:

(1) The Executive Committee shall each year elect a Chairman and one or more Vice-Chairmen;

(2) The Executive Committee may establish such subsidiary bodies and rules of procedure as are required for its proper functioning. A representative of the Agency and a representative of each Operating Agent (in its capacity as such) may attend meetings of the Executive Committee and its subsidiary bodies in an advisory capacity;

(3) The Executive Committee shall meet in regular session twice each year; a special meeting shall be convened upon the request of any Contracting Party which can demonstrate the need therefor;

(4) Meetings of the Executive Committee shall be held at such time and in such office or offices as may be designated by the Committee;

(5) At least twenty-eight days before each meeting of the Executive Committee, notice of the time, place and purpose of the meeting shall be given to each Contracting Party and to other persons or entities entitled to attend the meeting; notice need not be given to any person or entity otherwise entitled thereto if notice is waived before or after the meeting;

(6) The quorum for the transaction of business in meetings of the Executive Committee shall be one-half of the members plus one (less any resulting fraction) provided that any action relating to a particular Task shall require a quorum as aforesaid of members or alternate members designated by the Participants in that Task.

(e) *Voting.*

(1) When the Executive Committee adopts a decision or recommendation for or concerning a particular Task, the Executive Committee shall act:

(i) When unanimity is required under this Agreement: by agreement of of those members or alternate members which were designated by the Participants in that Task and which are present and voting;

(ii) When no express voting provision is made in this Agreement: by majority vote of those members or alternate members which were designated by the Participants in that Task and which are present and voting.

(2) In all other cases in which this Agreement expressly requires the Executive Committee to act by unanimity, this shall require the agreement of each member or alternate member present and voting, and in respect of all other decisions and recommendations for which no express voting provision is made in this Agreement, the Executive Committee shall act by a majority vote of the members or alternate members present and voting. If a government has designated more than one Contracting Party to this Agreement, those Contracting Parties may cast only one vote under this paragraph.

(3) The decisions and recommendations referred to in sub-paragraphs (1) and (2) above may, with the agreement of each member or alternate member entitled to act thereon, be made by mail, telex or cable without the necessity for calling a meeting. Such action shall be taken by unanimity or majority of such members as in a meeting. The Chairman of the Executive Committee shall ensure that all members are informed of each decision or recommendation made pursuant to this sub-paragraph.

(f) *Reports.* The Executive Committee shall, at least annually, provide the Agency with periodic reports on the progress of the Programme.

Article 4

THE OPERATING AGENTS

(a) *Designation.* Participants shall designate in the relevant Annex an Operating Agent for each Task. References in this Agreement to the Operating Agent shall apply to each Operating Agent in respect of the Task for which it is responsible.

(b) *Scope of Authority to Act on Behalf of Participants.* Subject to the provisions of the applicable Annex:

(1) All legal acts required to carry out each Task shall be performed on behalf of the Participants by the Operating Agent for the Task;

(2) The Operating Agent shall hold, for the benefit of the Participants, the legal title to all property rights which may accrue to or be acquired for the Task.

The Operating Agent shall operate the Task under its supervision and responsibility, subject to this Agreement, in accordance with the law of the country of the Operating Agent.

(c) *Reimbursements of Costs.* The Executive Committee may provide that expenses and costs incurred by an Operating Agent in acting as such pursuant to this Agreement shall be reimbursed to the Operating Agent from funds made available by the Participants pursuant to Article 6 hereof.

(d) *Replacement.* Should the Executive Committee wish to replace an Operating Agent with another government or entity, the Executive Committee may, acting by unanimity and with the consent of such government or entity, replace the initial Operating Agent. References in this Agreement to the "Operating Agent" shall include any government or entity appointed to replace the original Operating Agent under this paragraph.

(e) *Resignation.* An Operating Agent shall have the right to resign at any time, by giving six months written notice to that effect to the Executive Committee, provided that:

(1) A Participant, or entity designated by a Participant, is at such time willing to assume the duties and obligations of the Operating Agent and so notifies the Executive Committee and the other Participants to that effect, in writing, not less than three months in advance of the effective date of such resignation; and

(2) Such Participant or entity is approved by the Executive Committee, acting by unanimity.

(f) *Accounting.* An Operating Agent which is replaced or which resigns as Operating Agent shall provide the Executive Committee with an accounting of any monies and other assets which it may have collected or acquired for the Task in the course of carrying out its responsibilities as Operating Agent.

(g) *Transfer of Rights.* In the event that another Operating Agent is appointed under paragraph *(d)* or *(e)* above, the Operating Agent shall transfer to such replacement Operating Agent any property rights which it may hold on behalf of the Task.

(h) *Information and Reports.* Each Operating Agent shall furnish to the Executive Committee such information concerning the Task as the Committee may request and shall each year submit, not later than two months after the end of the financial year, a report on the status of the Task.

Article 5

ADMINISTRATION AND STAFF

(a) *Administration of Tasks.* Each Operating Agent shall be responsible to the Executive Committee for implementing its designated Task in accordance with this Agreement, the applicable Task Annex, and the decisions of the Executive Committee.

(b) *Staff.* It shall be the responsibility of the Operating Agent to retain such staff as may be required to carry out its designated Task in accordance with rules determined by the Executive Committee. The Operating Agent may also, as required, utilize the services of personnel employed by other Participants (or organizations or other entities designated by Contracting Parties) and made available to the Operating Agent by secondment or otherwise. Such personnel shall be remunerated by their respective employers and shall, except as provided in this Article, be subject to their employers' conditions of service. The Contracting Parties shall be entitled to claim the appropriate cost of such remuneration or to receive an appropriate credit for such cost as part of the Budget of the Task, in accordance with Article 6 *(f)* (6) hereof.

Article 6

FINANCE

(a) *Individual Obligations.* Each Contracting Party shall bear the costs it incurs in carrying out this Agreement, including the costs of formulating or transmitting reports and of reimbursing its employees for travel and other per diem expenses incurred in connection with work carried out on the respective Tasks, unless provision is made for such costs to be reimbursed from common funds as provided in paragraph *(g)* below.

(b) *Common Financial Obligations.* Participants wishing to share the costs of a particular Task shall agree in the appropriate Task Annex to do so. The apportionment of contributions to such costs (whether in the form of cash, services rendered, intellectual property or the supply of materials) and the use of such contributions shall be governed by the regulations and decisions made pursuant to this Article by the Executive Committee.

(c) *Financial Rules, Expenditure.* The Executive Committee, acting by unanimity, may make such regulations as are required for the sound financial management of each Task including, where necessary:

(1) Establishment of budgetary and procurement procedures to be used by the Operating Agent in making payments from any common funds which may be maintained by Participants for the account of the Task or in making contracts on behalf of the Participants;

(2) Establishment of minimum levels of expenditure for which Executive Committee approval shall be required, including expenditure involving payment of monies to the Operating Agent for other than routine salary and administrative expenses previously approved by the Executive Committee in the budget process.

In the expenditure of common funds, the Operating Agent shall take into account the necessity of ensuring a fair distribution of such expenditure in the Participants' countries, where this is fully compatible with the most efficient technical and financial management of the Task.

(d) *Crediting of Income to Budget.* Any income which accrues from a Task shall be credited to the Budget of that Task.

(e) *Accounting.* The system of accounts employed by the Operating Agent shall be in accordance with accounting principles generally accepted in the country of the Operating Agent and consistently applied.

(f) *Programme of Work and Budget, Keeping of Accounts.* Should Participants agree to maintain common funds for the payment of obligations under a Programme of Work and Budget of the Task, the following provisions shall be applicable unless the Executive Committee, acting by unanimity, decides otherwise:

(1) The financial year of the Task shall correspond to the financial year of the Operating Agent;

(2) The Operating Agent shall each year prepare and submit to the Executive Committee for approval a draft Programme of Work and Budget, together with an indicative programme of work and budget for the following two years, not later than three months before the beginning of each financial year;

(3) The Operating Agent shall maintain complete, separate financial records which shall clearly account for all funds and property coming into the custody or possession of the Operating Agent in connection with the Task;

(4) Not later than three months after the close of each financial year the Operating Agent shall submit to auditors selected by the Executive Committee for audit the annual accounts maintained for the Task; upon completion of the annual audit, the Operating Agent shall present the

accounts together with the auditors' report to the Executive Committee for approval;

(5) All books of account and records maintained by the Operating Agent shall be preserved for at least three years from the date of termination of the Task;

(6) Where provided in the relevant Annex, a Participant supplying services, materials or intellectual property to the Task shall be entitled to a credit, determined by the Executive Committee, acting by unanimity, against its contribution (or to compensation, if the value of such services, materials or intellectual property exceeds the amount of the Participant's contribution); such credits for services of staff shall be calculated on an agreed scale approved by the Executive Committee and include all payroll-related costs.

(g) *Contribution to Common Funds.* Should Participants agree to establish common funds under the annual Programme of Work and Budget for a Task, any financial contributions due from Participants in a Task shall be paid to the Operating Agent in the currency of the country of the Operating Agent at such times and upon such other conditions as the Executive Committee, acting by unanimity, shall determine, provided however that:

(1) Contributions received by the Operating Agent shall be used solely in accordance with the Programme of Work and Budget for the Task;

(2) The Operating Agent shall be under no obligation to carry out any work on the Task until contributions amounting to at least fifty per cent (in cash terms) of the total due at any one time have been received.

(h) *Ancillary Services.* Ancillary services may, as agreed between the Executive Committee and the Operating Agent, be provided by that Operating Agent for the operation of a Task and the costs of such services, including overheads connected therewith, may be met from budgeted funds of that Task.

(i) *Taxes.* The Operating Agent shall pay all taxes and similar impositions (other than taxes on income) imposed by national or local governments and incurred by it in connection with a Task, as expenditure incurred in the operation of that Task under the Budget; the Operating Agent shall, however, endeavour to obtain all possible exemptions from such taxes.

(j) *Audit.* Each Participant shall have the right, at its sole cost, to audit the accounts of any work in a Task for which common funds are maintained, on the following terms:

(1) The Operating Agent shall provide the other Participants with an opportunity to participate in such audits on a cost-shared basis;

(2) Accounts and records relating to activities of the Operating Agent other than those conducted for the Task shall be excluded from such audit, but if the Participant concerned requires verification of charges to the Budget

representing services rendered to the Task by the Operating Agent, it may at its own cost request and obtain an audit certificate in this respect from the auditors of the Operating Agent;

(3) Not more than one such audit shall be required in any financial year;

(4) Any such audit shall be carried out by not more than three representatives of the Participants.

Article 7

INFORMATION AND INTELLECTUAL PROPERTY

It is expected that for each Task agreed to pursuant to this Agreement, the applicable Annex will contain information and intellectual property provisions. The General Guidelines Concerning Information and Intellectual Property, approved by the Governing Board of the Agency on 21st November, 1975,[1] shall be taken into account in developing such provisions.

Article 8

LEGAL RESPONSIBILITY AND INSURANCE

(a) *Liability of Operating Agent.* The Operating Agent shall use all reasonable skill and care in carrying out its duties under this Agreement in accordance with all applicable laws and regulations. Except as otherwise provided in this Article, the cost of all damage to property, and all expenses associated with claims, actions and other costs arising from work undertaken with common funds for a Task shall be charged to the Budget of that Task; such costs and expenses arising from other work undertaken for a Task shall be charged to the Budget of that Task if the Task Annex so provides or the Executive Committee, acting by unanimity, so decides.

(b) *Insurance.* The Operating Agent shall propose to the Executive Committee all necessary liability, fire and other insurance, and shall carry such insurance as the Executive Committee may direct. The cost of obtaining and maintaining insurance shall be charged to the Budget of the Task.

(c) *Indemnification of Contracting Parties.* The Operating Agent shall be liable, in its capacity as such, to indemnify Participants against the cost of any damage to property and all legal liabilities, actions, claims, costs and expenses connected therewith to the extent that they:

[1] TIAS 8229; 27 UST 252.

(1) Result from the failure of the Operating Agent to maintain such insurance as it may be required to maintain under paragraph *(b)* above; or

(2) Result from the gross negligence or wilful misconduct of any officers or employees of the Operating Agent in carrying out their duties under this Agreement.

Article 9

LEGISLATIVE PROVISIONS

(a) *Accomplishment of Formalities.* Each Participant shall request the appropriate authorities of its country (or its Member States in the case of an international organization) to use their best endeavours, within the framework of applicable legislation, to facilitate the accomplishment of formalities involved in the movement of persons, the importation of materials and equipment and the transfer of currency which shall be required to conduct the Task in which it is engaged.

(b) *Applicable Laws.* In carrying out this Agreement and its Annexes, the Contracting Parties shall be subject to the appropriation of funds by the appropriate governmental authority, where necessary, and to the constitution, laws and regulations applicable to the respective Contracting Parties, including, but not limited to, laws establishing prohibitions upon the payment of commissions, percentages, brokerage or contingent fees to persons retained to solicit governmental contracts and upon any share of such contracts accruing to governmental officials.

(c) *Decisions of Agency Governing Board.* Participants in the various Tasks shall take account, as appropriate, of the Guiding Principles for Co-operation in the Field of Energy Research and Development,[1] and any modification thereof, as well as other decisions of the Governing Board of the Agency in that field. The termination of the Guiding Principles shall not affect this Agreement, which shall remain in force in accordance with the terms hereof.

(d) *Settlement of Disputes.* Any dispute among the Contracting Parties concerning the interpretation or the application of this Agreement which is not settled by negotiation or other agreed mode of settlement shall be referred to a tribunal of three arbitrators to be chosen by the Contracting Parties concerned who shall also choose the Chairman of the tribunal. Should the Contracting Parties concerned fail to agree upon the composition of the tribunal or the selection of its Chairman, the President of the International Court of Justice shall, at the request of any of the Contracting Parties concerned, exercise those responsibilities. The tribunal shall decide any such dispute by reference to the terms of this Agreement and any applicable laws and regulations, and its decision on a question of fact shall be final and binding on the Contracting Parties concerned. Operating Agents which are not Contracting Parties shall be regarded as Contracting Parties for the purpose of this paragraph.

[1] Adopted by the Governing Board of the International Energy Agency on July 28, 1975. TIAS 8229; 27 UST 249.

Article 10

ADMISSION AND WITHDRAWAL OF CONTRACTING PARTIES

(a) *Admission of New Contracting Parties: Agency Countries.* Upon the invitation of the Executive Committee, acting by unanimity, admission to this Agreement shall be open to the government of any Agency Participating Country (or a national agency, public organization, private corporation, company or other entity designated by such government), which signs or accedes to this Agreement, accepts the rights and obligations of a Contracting Party, and is accepted for participation in at least one Task by the Participants in that Task, acting by unanimity. Such admission of a Contracting Party shall become effective upon the signature of this Agreement by the new Contracting Party or its accession thereto and its giving Notice of Participation in one or more Annexes and the adoption of any consequential amendments thereto.

(b) *Admission of New Contracting Parties: Other OECD Countries.* The government of any Member of the Organisation for Economic Co-operation and Development which does not participate in the Agency may, on the proposal of the Executive Committee, acting by unanimity, be invited by the Governing Board of the Agency to become a Contracting Party to this Agreement (or to designate a national agency, public organization, private corporation, company or other entity to do so), under the conditions stated in paragraph *(a)* above.

(c) *Participation by the European Communities.* The European Communities may participate in this Agreement in accordance with arrangements to be made by the Executive Committee, acting by unanimity.

(d) *Admission of New Participants in Tasks.* Any Contracting Party may, with the agreement of the Participants in a Task, acting by unanimity, become a Participant in that Task. Such participation shall become effective upon the Contracting Party's giving the Executive Director of the Agency a Notice of Participation in the appropriate Task Annex and the adoption of consequential amendments thereto.

(e) *Contributions.* The Executive Committee may require, as a condition to admission to participation, that the new Contracting Party or new Participant shall contribute (in the form of cash, services or materials) an appropriate proportion of the prior budget expenditure of any Task in which it participates.

(f) *Replacement of Contracting Parties.* With the agreement of the Executive Committee, acting by unanimity, and upon the request of a government, a Contracting Party designated by that government may be replaced by another party. In the event of such replacement, the replacement party shall assume the rights and obligations of a Contracting Party as provided in paragraph *(a)* above and in accordance with the procedure provided therein.

(g) *Withdrawal.* Any Contracting Party may withdraw from this Agreement or from any Task either with the agreement of the Executive Committee, acting by unanimity, or by giving twelve months written Notice of Withdrawal to the Executive Director of the

Agency, such Notice to be given not less than one year after the date hereof. The withdrawal of a Contracting Party under this paragraph shall not affect the rights and obligations of the other Contracting Parties; except that, where the other Contracting Parties have contributed to common funds for a Task, their proportionate shares in the Task Budget shall be adjusted to take account of such withdrawal.

(h) *Changes of Status of Contracting Party.* A Contracting Party other than a government or an international organization shall forthwith notify the Executive Committee of any significant change in its status or ownership, or of its becoming bankrupt or entering into liquidation. The Executive Committee shall determine whether any such change in status of a Contracting Party significantly affects the interests of the other Contracting Parties; if the Executive Committee so determines, then, unless the Executive Committee, acting upon the unanimous decision of the other Contracting Parties, otherwise agrees:

(1) That Contracting Party shall be deemed to have withdrawn from the Agreement under paragraph *(g)* above on a date to be fixed by the Executive Committee; and

(2) The Executive Committee shall invite the government which designated that Contracting Party to designate, within a period of three months of the withdrawal of that Contracting Party, a different entity to become a Contracting Party; if approved by the Executive Committee, acting by unanimity, such entity shall become a Contracting Party with effect from the date on which it signs or accedes to this Agreement and gives the Executive Director of the Agency a Notice of Participation in one or more Annexes.

(i) *Failure to Fulfil Contractual Obligations.* Any Contracting Party which fails to fulfil its obligations under this Agreement within sixty days after its receipt of notice specifying the nature of such failure and invoking this paragraph, may be deemed by the Executive Committee, acting by unanimity, to have withdrawn from this Agreement.

Article 11

FINAL PROVISIONS

(a) *Term of Agreement.* This Agreement shall remain in force for an initial period of three years from the date hereof, and shall continue in force thereafter unless and until the Executive Committee, acting by unanimity, decides on its termination.

(b) *Legal Relationship of Contracting Parties and Participants.* Nothing in this Agreement shall be regarded as constituting a partnership between any of the Contracting Parties or Participants.

(c) *Termination.* Upon termination of this Agreement, or any Annex to this Agreement, the Executive Committee, acting by unanimity, shall arrange for the liquidation

of the assets of the Task or Tasks. In the event of such liquidation, the Executive Committee shall, so far as practicable, distribute the assets of the Task, or the proceeds therefrom, in proportion to the contributions which the Participants have made from the beginning of the operation of the Task, and for that purpose shall take into account the contributions and any outstanding obligations of former Contracting Parties. Disputes with a former Contracting Party about the proportion allocated to it under this paragraph shall be settled under Article 9 *(d)* hereof, for which purpose a former Contracting Party shall be regarded as a Contracting Party.

(d) *Amendment.* This Agreement may be amended at any time by the Executive Committee, acting by unanimity, and any Annex to this Agreement may be amended at any time by the Executive Committee, acting by unanimity of the Participants in the Task to which the Annex refers. Such amendments shall come into force in a manner determined by the Executive Committee, acting under the voting rule applicable to the decision to adopt the amendment.

(e) *Deposit.* The original of this Agreement shall be deposited with the Executive Director of the Agency and a certified copy thereof shall be furnished to each Contracting Party. A copy of this Agreement shall be furnished to each Agency Participating Country, to each Member country of the Organisation for Economic Co-operation and Development and to the European Communities.

Done in Paris, this 22nd day of May, 1979.

For the ENTE NAZIONALE PER L'ENERGIA ELETTRICA (ENEL) (designated by the Government of Italy): ARNALDO M. ANGELINI

For the COMISION FEDERAL DE ELECTRICIDAD for and one behalf of the Government of Mexico: H.A. ESPINOZA

For the MINISTRY OF WORKS AND DEVELOPMENT for and on behalf of the Government of New Zealand: W. BIRCH

For the DEPARTMENT OF ENERGY for and on behalf of the Government of the United States of America: HARRY E. BERGOLD

Annex I

TEST AND DEMONSTRATION OF A 1MW WELL-HEAD GENERATOR

1. *Background and Objectives*

(a) Background

Small-scale, transportable geothermal electric generators are needed for testing geothermal resources and for providing electricity in an early stage of the development of large geothermal fields. Such generators must be able to operate under a broad range of geothermal resource conditions (different salinity, temperature and pressure). A small-scale (1.2MW) transportable total flow helical screw expander generator (the "Power Plant") suitable for such conditions has been designed and field tested for the United States Department of Energy.

(b) Objectives

The objectives of this Task are:

(1) To accelerate the development of geothermal resources through early introduction of advanced geothermal energy conversion technology;

(2) To provide prospective users of geothermal energy experience in operating advanced technology geothermal equipment; and

(3) To develop a data base for a range of geothermal source conditions of the Power Plant's performance and reliability in order to assess the cost/benefits in the application of the Power Plant.

2. *Means*

A comprehensive field test and demonstration programme of the Power Plant shall be carried out in Italy, Mexico and New Zealand (the "Host Countries").

(a) Preparation and Planning of the Test and Demonstration Programme of the Power Plant

(1) The Operating Agent shall provide the operational Power Plant including supporting equipment for use in the Task;

(2) The Operating Agent shall co-ordinate the development of an overall Task test and demonstration programme.

(b) Site Selection

(1) Each Host Country shall propose a primary and an alternative test site and shall provide the other Participants with the available geothermal resource data as well as the operating conditions;

(2) The final sites will be selected by the Host Country and the Operating Agent after consultation with the Executive Committee.

(c) Site Preparation

Each Host Country shall provide a test bed layout for suitable testing of the Power Plant.

(d) Data Collection, Analysis and Reporting

(1) Each Host Country will measure and collect data according to the test and demonstration programme as provided in paragraph 2 *(a)* (2);

(2) Each Host Country will report the data and its evaluation, including an assessment on the costs and benefits of the Power Plant to other Participants;

(3) The Operating Agent will prepare and distribute to Participants a final report on the Task.

3. *Time Schedule*

The Programme will be carried out in accordance with the schedule indicated below:

Participant	Work to be performed	1979		1980		1981	
Operating Agent (U.S.)	Delivery of the Power Plant for transport to Mexico		×				
	Development of the test and demonstration programme	×××					
	Final report						××××
Mexico	Site Selection and Site Preparation	××××					
	Installation of the Power Plant		×				
	Test and Demonstration Programme		××××	××			
	Delivery of the Power Plant for transport to Italy			×			
	Interim Status Report			××			
Italy	Site Selection and Site Preparation		×××××	×			
	Installation of the Power Plant			×			
	Test and Demonstration Programme			××	×××		
	Delivery of the Power Plant for transport to New Zealand				×		
	Interim Status Report				××		
New Zealand	Site Selection and Site Preparation			××××			
	Installation of the Power Plant				×		
	Test and Demonstration Programme				×	×××××	
	Delivery of the Power Plant for transport to United States					×	
	Interim Status Report					×	×

4. *Specific Responsibilities*

(a) Specific Responsibilities of the Operating Agent

The Operating Agent will:

(1) Provide the operational Power Plant and associated supporting equipment to Mexico according to the schedule indicated above;

(2) Provide technical specialists to advise on the installation and operation of the Power Plant during the test and demonstration programmes;

(3) Perform major equipment repair;

(4) Prepare and distribute to Participants a final report on the Task.

(b) Specific Responsibilities of other Participants

The Participants carrying out the test and demonstration programmes will:

(1) Provide the test-site for the Power Plant and make the necessary site-related preparations prior to the installation of the Power Plant;

(2) Be responsible for the installation and routine maintenance of the Power Plant;

(3) Be responsible for the test and demonstration programmes, including adequate support by electrical, instrumentation and computer programming engineers.

5. *Funding*

(a) The Operating Agent will bear the costs of:

(1) Technical specialists to monitor and assist in the installation and operation of the Power Plant;

(2) Major equipment repair;

(3) The transport of the Power Plant and supporting equipment back to the United States at the end of the Task.

(b) The Host Countries will bear the costs of:

(1) Transporting the Power Plant to its test and demonstration site;

(2) The costs of site preparation, Power Plant installation, and the costs of conducting its test and demonstration programme;

(3) Preparing the Power Plant and the supporting equipment for shipment from the site.

(c) Each Participant shall bear the costs it incurs in carrying out this Task, including the costs of formulating and transmitting reports, of reimbursing its employees for travel and per diem expenses, and of payments for the salaries, insurance, and allowances of its personnel in connection with work carried out in the Task.

6. *Operating Agent*

The United States Department of Energy.

7. *Information and Intellectual Property*

(a) *Executive Committee's Powers.* The publication, distribution, handling, protection and ownership of information and intellectual property arising from this Annex *I*, and rules and procedures related to such information and property, shall be determined by the Executive Committee, acting by unanimity, in conformity with the Agreement.

(b) *Right to Publish.* Subject only to the restrictions applying to patents and copyrights, the Annex *I* Participants (referred to in this Annex *I* as the "Participants") shall have the right to publish all information provided to or arising from this Task except proprietary information. For the purposes of this paragraph, proprietary information shall mean information of a confidential nature such as trade secrets and know-how (for example, computer programmes, design procedures and techniques, chemical composition of materials, or manufacturing methods, processes. or treatments) which are appropriately marked, provided such information:

(1) Is not generally known or publicly available from other sources;

(2) Has not previously been made available by the owner to others without obligations concerning its confidentiality; and

(3) Is not already in the possession of the Operating Agent or Participant without obligation concerning its confidentiality.

(c) *Marking of Proprietary Information.* It shall be the responsibility of each Participant to identify information it furnishes which qualifies as proprietary information under this paragraph and ensure that it is appropriately marked. The Participants shall take all necessary measures in accordance with this paragraph, the laws of their respective countries and international law to protect proprietary information.

(d) *Production of Relevant Information by Participants.* Each Participant and the Operating Agent should endeavour to make available, or identify in the context of the Task, pre-existing information and information developed independently of the Task, known to it, which is relevant to

the Task and which can be made available to the Task without contractual or legal limitation. Proprietary information owned or controlled by the Participants or the Operating Agent should be made available to the Task and licensed under the provisions of paragraphs *(f)* and *(g)*. It should be noted that certain aspects and details of the generator to be used and tested in this Task are owned by and are proprietary to a contractor of the Operating Agent. Such information will be provided to the Task, for use only under the Task, in accordance with paragraph *(f)* only to the extent necessary for the installation and operation of the generator in accordance with the work to be conducted under the Task. Other use and licensing of such proprietary information will be subject to the restriction of paragraph *(g)*.

(e) *Reports on Information Relevant to the Task.* Information arising in the course of or under the Task ("arising information") shall be freely available to all Participants for use and dissemination. Reports containing arising information and pre-existing information necessary for and used in the Task, including proprietary information. should be provided to the Operating Agent by each Participant and shall cover the work performed by each Participant under this Task. A report summarizing the work performed under the Task by each Participant and the Operating Agent, excluding pre-existing proprietary information, shall be prepared by the Operating Agent and forwarded to the Executive Committee.

(f) *Licensing Under the Task.* Each Participant agrees to license all pre-existing information and inventions, including proprietary information, owned or controlled by the Participant which are necessary for utilizing or testing the generator under this Task on a non-exclusive, royalty-free basis for use in the Task only. In addition, the proprietary information and patents owned and proprietary to the contractor to the Operating Agent shall be similarly licensed to the extent that such information and patents are necessary for use in the Task.

(g) *Licensing for Commercial Use.* Each Participant agrees to license all pre-existing inventions and all pre-existing information, including proprietary information, owned or controlled by the Participant which are necessary for, or utilized in the Task, to the other Participants, their governments and the nationals of their respective countries designated by them for commercial purposes on reasonable terms and conditions. The Operating Agent shall ensure that the pre-existing inventions and proprietary data concerning the generator to be used and tested under this Task, and which is proprietary to the contractor of the Operating Agent, shall be licensed to each Participant on reasonable terms and conditions if said contractor is not capable of supplying the materials, equipment or services covered by such information and inventions at reasonable prices and in sufficient quantities to meet market demands.

(h) *Ownership and Licensing of Arising Inventions.* Inventions made or conceived in the course of or under this Task ("arising inventions") shall be owned by each Participant in its own country and by the inven-

ting Participant in other countries. Each Participant shall license such arising inventions to the other Participants, their governments and the nationals of their respective countries designated by them for commercial purposes on reasonable terms and conditions.

(i) *Copyrights.* Each Participant may take appropriate measures necessary to protect copyrightable material generated by it under this Task. Copyrights obtained shall be the property of the Participant, provided however, that the other Participants may reproduce and distribute such material, but shall not publish it with a view to profit.

(j) *Co-operation from Authors and Inventors.* Each Participant will, without prejudice to any rights of inventors or authors under its national laws, take all necessary steps to provide the co-operation from its authors and inventors required to carry out the provisions of this paragraph. Each Participant will assume the responsibility to pay awards or compensation required to be paid to its employees according to the laws of its country.

(k) *"National" of a Participant.* The Executive Committee may establish guidelines to determine what constitutes a "national" of a Participant. In the event of a dispute as to what constitutes a "national" of a Participant, such disputes shall be handled in accordance with Article 9 *(d)* of the Agreement.

8. *Results*

The results of this Task will be a final report, which shall include:

(a) An assessment of the performance and reliability of the Power Plant under the differing geothermal conditions of the test sites;

(b) A cost/benefit analysis of the Power Plant, relative to each site.

9. *Participants*

The Contracting Parties which are Participants in the Task are the following:

Ente Nazionale per l'Energia Elettrica [ENEL] (Italy),

Comision Federal de Electricidad (Mexico),

Ministry of Works and Development (New Zealand),

United States Department of Energy.

The Legal Advisor of the International Energy Agency hereby certifies that the present copy conforms to the original text deposited with the Executive Director of the International Energy Agency (as amended to the date hereof, by agreement of the Contracting Parties).

Paris, 28th January, 1980

THE LEGAL ADVISOR:

RICHARD F. SCOTT

MULTILATERAL

Energy: High Temperature Materials for Automotive Engines

Implementing agreement done at Paris May 22, 1979; Entered into force May 22, 1979.

INTERNATIONAL ENERGY AGENCY

IMPLEMENTING AGREEMENT
FOR A PROGRAMME OF RESEARCH AND DEVELOPMENT ON HIGH TEMPERATURE MATERIALS FOR AUTOMOTIVE ENGINES

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Annex I

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INTERNATIONAL ENERGY AGENCY

IMPLEMENTING AGREEMENT
FOR A PROGRAMME OF RESEARCH AND DEVELOPMENT ON HIGH TEMPERATURE MATERIALS FOR AUTOMOTIVE ENGINES

The Contracting Parties

CONSIDERING that the Contracting Parties, being either governments of International Energy Agency ("Agency") countries, governments of other countries invited by the Governing Board of the Agency to be Contracting Parties, international organizations or parties designated by their respective governments, wish to take part in the establishment and operation of a Programme of Research and Development on High Temperature Materials for Automotive Engines (the "Programme") as provided in this Agreement;

CONSIDERING that the Contracting Parties which are governments of Agency Countries and the governments of Agency countries which have designated Contracting Parties (referred to collectively as the "Governments") have agreed in Article 41 of the Agreement on an International Energy Program [1] (the "I.E.P. Agreement") to undertake national programmes in the areas set out in Article 42 of the I.E.P. Agreement, including energy research and development, and have referred in Chapter IV of the Long-Term Co-operation Programme, adopted by the Governing Board on 30th January, 1976, [2] to the establishment of programmes in new energy research and development areas and that the development of high temperature materials for automotive engines would aid the Agency Participating Countries in meeting their energy objectives;

CONSIDERING that in the Governing Board of the Agency on 30th March, 1979, the Governments approved the Programme as a special activity under Article 65 of the I.E.P. Agreement;

CONSIDERING that the Agency has recognized the establishment of the Programme as an important component of international co-operation in the field of energy research and development;

HAVE AGREED as follows:

[1] Done Nov. 18, 1974. TIAS 8278; 27 UST 1708.
[2] TIAS 8229; 27 UST 243.

Article 1

OBJECTIVES

(a) *Scope of Activity.* The Programme to be carried out by the Contracting Parties within the framework of this Agreement shall consist of co-operative research, development, demonstrations and exchanges of information, personnel, materials and instrumentation regarding high temperature materials for automotive engines (including cars, trucks and buses).

(b) *Method of Implementation.* The Contracting Parties shall implement the Programme by undertaking one or more tasks (the "Task" or "Tasks") each of which will be open to participation by two or more Contracting Parties as provided in Article 2 hereof. The Contracting Parties which participate in a particular Task are, for the purposes of that Task, referred to in this Agreement as "Participants".

(c) *Task Co-ordination and Co-operation.* The Contracting Parties shall co-operate in co-ordinating the work of the various Tasks and shall endeavour, on the basis of an appropriate sharing of burdens and benefits, to encourage co-operation among Participants engaged in the various Tasks with the objective of advancing the research and development activities of all Contracting Parties in the field of high temperature materials for automotive engines.

Article 2

IDENTIFICATION AND INITIATION OF TASKS

(a) *Identification.* The Tasks undertaken by Participants are identified in the Annexes to this Agreement. At the time of signing this Agreement, each Contracting Party shall confirm its intention to participate in one or more Tasks by giving the Executive Director of the Agency a Notice of Participation in the relevant Annex or Annexes and the Operating Agent for each Task shall give the Executive Director of the Agency a Notice of Acceptance of the Task Annex. Thereafter, each Task shall be carried out in accordance with the procedures set forth in Articles 2 to 11 hereof, unless otherwise specifically provided in the applicable Annex.

(b) *Initiation of Additional Tasks.* Additional Tasks may be initiated by any Contracting Party according to the following procedure:

(1) A Contracting Party wishing to initiate a new Task shall present to one or more Contracting Parties for approval a draft Annex, similar in form to the Annexes attached hereto, containing a description of the scope of work and conditions of the Task proposed to be performed;

(2) Whenever two or more Contracting Parties agree to undertake a new Task, they shall submit the draft Annex for approval by the Executive

Committee pursuant to Article 3 *(e)* (2) hereof; the approved draft Annex shall become part of this Agreement; Notice of Participation in the Task by Contracting Parties and acceptance by the Operating Agent shall be communicated to the Executive Director in the manner provided in paragraph *(a)* above;

(3) In carrying out the various Tasks, Participants shall co-ordinate their activities in order to avoid duplication of activities.

Article 3

THE EXECUTIVE COMMITTEE

(a) *Supervisory Control.* Control of the Programme shall be vested in the Executive Committee constituted under this Article.

(b) *Membership.* The Executive Committee shall consist of one member designated by each Contracting Party; each Contracting Party shall also designate an alternate member to serve on the Executive Committee in the event that its designated member is unable to do so.

(c) *Responsibilities.* The Executive Committee shall:

(1) Adopt for each year, acting by unanimity, the Programme of Work, and Budget if foreseen, for each Task, together with an indicative Programme of Work and Budget for the following two years; the Executive Committee may, as required, make adjustments within the framework of the Programme of Work and Budget;

(2) Make such rules and regulations as may be required for the sound management of the Tasks, including financial rules as provided in Article 6 hereof;

(3) Carry out the other functions conferred upon it by this Agreement and the Annexes hereto; and

(4) Consider any matters submitted to it by any of the Operating Agents or by any Contracting Party.

(d) *Procedure.* The Executive Committee shall carry out its responsibilities in accordance with the following procedures:

(1) The Executive Committee shall each year elect a Chairman and one or more Vice-Chairmen;

(2) The Executive Committee may establish such subsidiary bodies and rules of procedure as are required for its proper functioning. A representative

of the Agency and a representative of each Operating Agent (in its capacity as such) may attend meetings of the Executive Committee and its subsidiary bodies in an advisory capacity;

(3) The Executive Committee shall meet in regular session twice each year; a special meeting shall be convened upon the request of any Contracting Party which can demonstrate the need therefor;

(4) Meetings of the Executive Committee shall be held at such time and in such office or offices as may be designated by the Committee;

(5) At least twenty-eight days before each meeting of the Executive Committee, notice of the time, place and purpose of the meeting shall be given to each Contracting Party and to other persons or entities entitled to attend the meeting; notice need not be given to any person or entity otherwise entitled thereto if notice is waived before or after the meeting;

(6) The quorum for the transaction of business in meetings of the Executive Committee shall be one-half of the members plus one (less any resulting fraction) provided that any action relating to a particular Task shall require a quorum as aforesaid of members or alternate members designated by the Participants in that Task.

(e) *Voting.*

(1) When the Executive Committee adopts a decision or recommendation for or concerning a particular Task, the Executive Committee shall act:

(i) When unanimity is required under this Agreement: by agreement of those members or alternate members which were designated by the Participants in that Task and which are present and voting;

(ii) When no express voting provision is made in this Agreement: by majority vote of those members or alternate members which were designated by the Participants in that Task and which are present and voting.

(2) In all other cases in which this Agreement expressly requires the Executive Committee to act by unanimity, this shall require the agreement of each member or alternate member present and voting, and in respect of all other decisions and recommendations for which no express voting provision is made in this Agreement, the Executive Committee shall act by a majority vote of the members or alternate members present and voting. If a government has designated more than one Contracting Party to this Agreement, those Contracting Parties may cast only one vote under this paragraph.

(3) The decisions and recommendations referred to in sub-paragraphs (1) and (2) above may, with the agreement of each member or alternate member entitled to act thereon, be made by mail, telex or cable without

the necessity for calling a meeting. Such action shall be taken by unanimity or majority of such members as in a meeting. The Chairman of the Executive Committee shall ensure that all members are informed of each decision or recommendation made pursuant to this subparagraph.

(f) *Reports.* The Executive Committee shall, at least annually, provide the Agency with periodic reports on the progress of the Programme.

Article 4

THE OPERATING AGENTS

(a) *Designation.* Participants shall designate in the relevant Annex an Operating Agent for each Task. References in this Agreement to the Operating Agent shall apply to each Operating Agent in respect of the Task for which it is responsible.

(b) *Scope of Authority to Act on Behalf of Participants.* Subject to the provisions of the applicable Annex:

(1) All legal acts required to carry out each Task shall be performed on behalf of the Participants by the Operating Agent for the Task;

(2) The Operating Agent shall hold, for the benefit of the Participants, the legal title to all property rights which may accrue to or be acquired for the Task.

The Operating Agent shall operate the Task under its supervision and responsibility, subject to this Agreement, in accordance with the law of the country of the Operating Agent.

(c) *Reimbursement of Costs.* The Executive Committee may provide that expenses and costs incurred by an Operating Agent in acting as such pursuant to this Agreement shall be reimbursed to the Operating Agent from funds made available by the Participants pursuant to Article 6 hereof.

(d) *Replacement.* Should the Executive Committee wish to replace an Operating Agent with another government or entity, the Executive Committee may, acting by unanimity and with the consent of such government or entity, replace the initial Operating Agent. References in this Agreement to the "Operating Agent" shall include any government or entity appointed to replace the original Operating Agent under this paragraph.

(e) *Resignation.* An Operating Agent shall have the right to resign at any time, by giving six months written notice to that effect to the Executive Committee, provided that:

(1) A Participant, or entity designated by a Participant, is at such time willing to assume the duties and obligations of the Operating Agent and so notifies the Executive Committee and the other Participants to that

effect, in writing, not less than three months in advance of the effective date of such resignation; and

(2) Such Participant or entity is approved by the Executive Committee, acting by unanimity.

(f) *Accounting.* An Operating Agent which is replaced or which resigns as Operating Agent shall provide the Executive Committee with an accounting of any monies and other assets which it may have collected or acquired for the Task in the course of carrying out its responsibilities as Operating Agent.

(g) *Transfer of Rights.* In the event that another Operating Agent is appointed under paragraph *(d)* or *(e)* above, the Operating Agent shall transfer to such replacement Operating Agent any property rights which it may hold on behalf of the Task.

(h) *Information and Reports.* Each Operating Agent shall furnish to the Executive Committee such information concerning the Task as the Committee may request and shall each year submit, not later than two months after the end of the financial year, a report on the status of the Task.

Article 5

ADMINISTRATION AND STAFF

(a) *Administration of Tasks.* Each Operating Agent shall be responsible to the Executive Committee for implementing its designated Task in accordance with this Agreement, the applicable Task Annex, and the decisions of the Executive Committee.

(b) *Staff.* It shall be the responsibility of the Operating Agent to retain such staff as may be required to carry out its designated Task in accordance with rules determined by the Executive Committee. The Operating Agent may also, as required, utilize the services of personnel employed by other Participants (or organizations or other entities designated by Contracting Parties) and made available to the Operating Agent by secondment or otherwise. Such personnel shall be remunerated by their respective employers and shall, except as provided in this Article, be subject to their employers' conditions of service. The Contracting Parties shall be entitled to claim the appropriate cost of such remuneration or to receive an appropriate credit for such cost as part of the Budget of the Task, in accordance with Article 6 *(f)* (6) hereof.

Article 6

FINANCE

(a) *Individual Obligations.* Each Contracting Party shall bear the costs it incurs in carrying out this Agreement, including the costs of formulating or transmitting reports

and of reimbursing its employees for travel and other per diem expenses incurred in connection with work carried out on the respective Tasks, unless provision is made for such costs to be reimbursed from common funds as provided in paragraph *(g)* below.

(b) *Common Financial Obligations.* Participants wishing to share the costs of a particular Task shall agree in the appropriate Task Annex to do so. The apportionment of contributions to such costs (whether in the form of cash, services rendered, intellectual property or the supply of materials) and the use of such contributions shall be governed by the regulations and decisions made pursuant to this Article by the Executive Committee.

(c) *Financial Rules, Expenditure.* The Executive Committee, acting by unanimity, may make such regulations as are required for the sound financial management of each Task including, where necessary:

(1) Establishment of budgetary and procurement procedures to be used by the Operating Agent in making payments from any common funds which may be maintained by Participants for the account of the Task or in making contracts on behalf of the Participants;

(2) Establishment of minimum levels of expenditure for which Executive Committee approval shall be required, including expenditure involving payment of monies to the Operating Agent for other than routine salary and administrative expenses previously approved by the Executive Committee in the budget process.

In the expenditure of common funds the Operating Agent shall take into account the necessity of ensuring a fair distribution of such expenditure in the Participants' countries, where this is fully compatible with the most efficient technical and financial management of the Task.

(d) *Crediting of Income to Budget.* Any income which accrues from a Task shall be credited to the Budget of that Task.

(e) *Accounting.* The system of accounts employed by the Operating Agent shall be in accordance with accounting principles generally accepted in the country of the Operating Agent and consistently applied.

(f) *Programme of Work and Budget, Keeping of Accounts.* Should Participants agree to maintain common funds for the payment of obligations under a Programme of Work and Budget of the Task, the following provisions shall be applicable unless the Executive Committee, acting by unanimity, decides otherwise:

(1) The financial year of the Task shall correspond to the financial year of the Operating Agent;

(2) The Operating Agent shall each year prepare and submit to the Executive Committee for approval a draft Programme of Work and Budget, together with an indicative programme of work and budget for the following two years, not later than three months before the beginning of each financial year;

(3) The Operating Agent shall maintain complete, separate financial records which shall clearly account for all funds and property coming into the custody or possession of the Operating Agent in connection with the Task;

(4) Not later than three months after the close of each financial year the Operating Agent shall submit to auditors selected by the Executive Committee for audit the annual accounts maintained for the Task; upon completion of the annual audit, the Operating Agent shall present the accounts together with the auditors' report to the Executive Committee for approval;

(5) All books of account and records maintained by the Operating Agent shall be preserved for at least three years from the date of termination of the Task;

(6) Where provided in the relevant Annex, a Participant supplying services, materials or intellectual property to the Task shall be entitled to a credit, determined by the Executive Committee, acting by unanimity, against its contribution (or to compensation, if the value of such services, materials or intellectual property exceeds the amount of the Participant's contribution); such credits for services of staff shall be calculated on an agreed scale approved by the Executive Committee and include all payroll-related costs.

(g) *Contribution to Common Funds.* Should Participants agree to establish common funds under the annual Programme of Work and Budget for a Task, any financial contributions due from Participants in a Task shall be paid to the Operating Agent in the currency of the country of the Operating Agent at such times and upon such other conditions as the Executive Committee, acting by unanimity, shall determine, provided however that:

(1) Contributions received by the Operating Agent shall be used solely in accordance with the Programme of Work and Budget for the Task;

(2) The Operating Agent shall be under no obligation to carry out any work on the Task until contributions amounting to at least fifty per cent (in cash terms) of the total due at any one time have been received.

(h) *Ancillary Services.* Ancillary services may, as agreed between the Executive Committee and the Operating Agent, be provided by that Operating Agent for the operation of a Task and the costs of such services, including overheads connected therewith, may be met from budgeted funds of that Task.

(i) *Taxes.* The Operating Agent shall pay all taxes and similar impositions (other than taxes on income) imposed by national or local governments and incurred by it in connection with a Task, as expenditure incurred in the operation of that Task under the Budget; the Operating Agent shall, however, endeavour to obtain all possible exemptions from such taxes.

(j) *Audit.* Each Participant shall have the right, at its sole cost, to audit the accounts of any work in a Task for which common funds are maintained, on the following terms:

(1) The Operating Agent shall provide the other Participants with an opportunity to participate in such audits on a cost-shared basis;

(2) Accounts and records relating to activities of the Operating Agent other than those conducted for the Task shall be excluded from such audit, but if the Participant concerned requires verification of charges to the Budget representing services rendered to the Task by the Operating Agent, it may at its own cost request and obtain an audit certificate in this respect from the auditors of the Operating Agent;

(3) Not more than one such audit shall be required in any financial year;

(4) Any such audit shall be carried out by not more than three representatives of the Participants.

Article 7

INFORMATION AND INTELLECTUAL PROPERTY

It is expected that for each Task agreed to pursuant to this Agreement, the applicable Annex will contain information and intellectual property provisions. The General Guidelines Concerning Information and Intellectual Property, approved by the Governing Board of the Agency on 21st November, 1975,[1] shall be taken into account in developing such provisions.

Article 8

LEGAL RESPONSIBILITY AND INSURANCE

(a) *Liability of Operating Agent.* The Operating Agent shall use all reasonable skill and care in carrying out its duties under this Agreement in accordance with all applicable laws and regulations. Except as otherwise provided in this Article, the cost of all damage to property, and all expenses associated with claims, actions and other costs arising from work undertaken with common funds for a Task shall be charged to the Budget of that Task; such costs and expenses arising from other work undertaken for a Task shall be charged to the Budget of that Task if the Task Annex so provides or the Executive Committee, acting by unanimity, so decides.

(b) *Insurance.* The Operating Agent shall propose to the Executive Committee all necessary liability, fire and other insurance, and shall carry such insurance as the

[1] TIAS 8229; 27 UST 252.

Executive Committee may direct. The cost of obtaining and maintaining insurance shall be charged to the Budget of the Task.

(c) *Indemnification of Contracting Parties.* The Operating Agent shall be liable, in its capacity as such, to indemnify Participants against the cost of any damage to property and all legal liabilities, actions, claims, costs and expenses connected therewith to the extent that they:

(1) Result from the failure of the Operating Agent to maintain such insurance as it may be required to maintain under paragraph *(b)* above; or

(2) Result from the gross negligence or wilful misconduct of any officers or employees of the Operating Agent in carrying out their duties under this Agreement.

Article 9

LEGISLATIVE PROVISIONS

(a) *Accomplishment of Formalities.* Each Participant shall request the appropriate authorities of its country (or its Member States in the case of an international organization) to use their best endeavours, within the framework of applicable legislation, to facilitate the accomplishment of formalities involved in the movement of persons, the importation of materials and equipment and the transfer of currency which shall be required to conduct the Task in which it is engaged.

(b) *Applicable Laws.* In carrying out this Agreement and its Annexes, the Contracting Parties shall be subject to the appropriation of funds by the appropriate governmental authority, where necessary, and to the constitution, laws and regulations applicable to the respective Contracting Parties, including, but not limited to, laws establishing prohibitions upon the payment of commissions, percentages, brokerage or contingent fees to persons retained to solicit governmental contracts and upon any share of such contracts accruing to governmental officials.

(c) *Decisions of Agency Governing Board.* Participants in the various Tasks shall take account, as appropriate, of the Guiding Principles for Co-operation in the Field of Energy Research and Development, [1] and any modification thereof, as well as other decisions of the Governing Board of the Agency in that field. The termination of the Guiding Principles shall not affect this Agreement, which shall remain in force in accordance with the terms hereof.

(d) *Settlement of Disputes.* Any dispute among the Contracting Parties concerning the interpretation or the application of this Agreement which is not settled by negotiation or other agreed mode of settlement shall be referred to a tribunal of three arbitrators to be chosen by the Contracting Parties concerned who shall also choose the Chairman of the tribunal. Should the Contracting Parties concerned fail to agree upon

[1] Adopted by the Governing Board of the International Energy Agency on July 28, 1975. TIAS 8229; 27 UST 249.

the composition of the tribunal or the selection of its Chairman, the President of the International Court of Justice shall, at the request of any of the Contracting Parties concerned, exercise those responsibilities. The tribunal shall decide any such dispute by reference to the terms of this Agreement and any applicable laws and regulations, and its decision on a question of fact shall be final and binding on the Contracting Parties concerned. Operating Agents which are not Contracting Parties shall be regarded as Contracting Parties for the purpose of this paragraph.

Article 10

ADMISSION AND WITHDRAWAL OF CONTRACTING PARTIES

(a) *Admission of New Contracting Parties: Agency Countries.* Upon the invitation of the Executive Committee, acting by unanimity, admission to this Agreement shall be open to the government of any Agency Participating Country (or a national agency, public organization, private corporation, company or other entity designated by such government), which signs or accedes to this Agreement, accepts the rights and obligations of a Contracting Party, and is accepted for participation in at least one Task by the Participants in that Task, acting by unanimity. Such admission of a Contracting Party shall become effective upon the signature of this Agreement by the new Contracting Party or its accession thereto and its giving Notice of Participation in one or more Annexes and the adoption of any consequential amendments thereto.

(b) *Admission of New Contracting Parties: Other OECD Countries.* The government of any Member of the Organisation for Economic Co-operation and Development which does not participate in the Agency may, on the proposal of the Executive Committee, acting by unanimity, be invited by the Governing Board of the Agency to become a Contracting Party to this Agreement (or to designate a national agency, public organization, private corporation, company or other entity to do so), under the conditions stated in paragraph *(a)* above.

(c) *Participation by the European Communities.* The European Communities may participate in this Agreement in accordance with arrangements to be made by the Executive Committee, acting by unanimity.

(d) *Admission of New Participants in Tasks.* Any Contracting Party may, with the agreement of the Participants in a Task, acting by unanimity, become a Participant in that Task. Such participation shall become effective upon the Contracting Party's giving the Executive Director of the Agency a Notice of Participation in the appropriate Task Annex and the adoption of consequential amendments thereto.

(e) *Contributions.* The Executive Committee may require, as a condition to admission to participation, that the new Contracting Party or new Participant shall contribute (in the form of cash, services or materials) an appropriate proportion of the prior budget expenditure of any Task in which it participates.

(f) *Replacement of Contracting Parties.* With the agreement of the Executive

Committee, acting by unanimity, and upon the request of a government, a Contracting Party designated by that government may be replaced by another party. In the event of such replacement, the replacement party shall assume the rights and obligations of a Contracting Party as provided in paragraph *(a)* above and in accordance with the procedure provided therein.

(g) *Withdrawal.* Any Contracting Party may withdraw from this Agreement or from any Task either with the agreement of the Executive Committee, acting by unanimity, or by giving twelve months written Notice of Withdrawal to the Executive Director of the Agency, such Notice to be given not less than one year after the date hereof. The withdrawal of a Contracting Party under this paragraph shall not affect the rights and obligations of the other Contracting Parties; except that, where the other Contracting Parties have contributed to common funds for a Task, their proportionate shares in the Task Budget shall be adjusted to take account of such withdrawal.

(h) *Changes of Status of Contracting Party.* A Contracting Party other than a government or an international organization shall forthwith notify the Executive Committee of any significant change in its status or ownership, or of its becoming bankrupt or entering into liquidation. The Executive Committee shall determine whether any such change in status of a Contracting Party significantly affects the interests of the other Contracting Parties; if the Executive Committee so determines, then, unless the Executive Committee, acting upon the unanimous decision of the other Contracting Parties, otherwise agrees:

(1) That Contracting Party shall be deemed to have withdrawn from the Agreement under paragraph *(g)* above on a date to be fixed by the Executive Committee; and

(2) The Executive Committee shall invite the government which designated that Contracting Party to designate, within a period of three months of the withdrawal of that Contracting Party, a different entity to become a Contracting Party; if approved by the Executive Committee, acting by unanimity, such entity shall become a Contracting Party with effect from the date on which it signs or accedes to this Agreement and gives the Executive Director of the Agency a Notice of Participation in one or more Annexes.

(i) *Failure to Fulfil Contractual Obligations.* Any Contracting Party which fails to fulfil its obligations under this Agreement within sixty days after its receipt of notice specifying the nature of such failure and invoking this paragraph, may be deemed by the Executive Committee, acting by unanimity, to have withdrawn from this Agreement.

Article 11

FINAL PROVISIONS

(a) *Term of Agreement.* This Agreement shall remain in force for an initial period of three years from the date hereof, and shall continue in force thereafter unless and until the Executive Committee, acting by unanimity, decides on its termination.

(b) *Legal Relationship of Contracting Parties and Participants.* Nothing in this Agreement shall be regarded as constituting a partnership between any of the Contracting Parties or Participants.

(c) *Termination.* Upon termination of this Agreement, or any Annex to this Agreement, the Executive Committee, acting by unanimity, shall arrange for the liquidation of the assets of the Task or Tasks. In the event of such liquidation, the Executive Committee shall, so far as practicable, distribute the assets of the Task, or the proceeds therefrom, in proportion to the contributions which the Participants have made from the beginning of the operation of the Task, and for that purpose shall take into account the contributions and any outstanding obligations of former Contracting Parties. Disputes with a former Contracting Party about the proportion allocated to it under this paragraph shall be settled under Article 9 *(d)* hereof, for which purpose a former Contracting Party shall be regarded as a Contracting Party.

(d) *Amendment.* This Agreement may be amended at any time by the Executive Committee, acting by unanimity, and any Annex to this Agreement may be amended at any time by the Executive Committee, acting by unanimity of the Participants in the Task to which the Annex refers. Such amendments shall come into force in a manner determined by the Executive Committee, acting under the voting rule applicable to the decision to adopt the amendment.

(e) *Deposit.* The original of this Agreement shall be deposited with the Executive Director of the Agency and a certified copy thereof shall be furnished to each Contracting Party. A copy of this Agreement shall be furnished to each Agency Participating Country, to each Member country of the Organisation for Economic Co-operation and Development and to the European Communities.

Done in Paris, this 22nd day of May, 1979.

For the DEUTSCHE FORSCHUNGS- UND VERSUCHSANSTALT FÜR LUFT- UND RAUMFAHRT e.V. (designated by the Government of Germany): W. BUNK
V. KRIES

For the DEPARTMENT OF ENERGY for and on behalf of the Government of the United States of America: HARRY E. BERGOLD

Annex 1

CERAMICS FOR AUTOMOTIVE GAS TURBINE ENGINES

1. *Background*

The Federal Ministry for Research and Technology (BMFT) of Germany is supporting a ceramic components programme for vehicular gas turbines that is similar in scope and funding to part of the United States Department of Energy (DOE) advanced automotive heat engine development programme devoted to gas turbine ceramic components. Both programmes have been operating for several years. The BMFT programme is being conducted by the Deutsche Forschungs- und Versuchsanstalt für Luft- und Raumfahrt e.V. (DFVLR).

2. *Objectives*

The objective of this Annex is to carry out technical studies related to high temperature structural ceramics for automotive (including cars, trucks and buses) gas turbine engine applications, with emphasis on materials and component technology. The Participants wish to avoid unnecessary duplication of research efforts and to accelerate the achievement of the objectives of their research and development programmes.

3. *Means*

The scope of the work to be accomplished by the Participants is set out in the following Subtasks:

Subtask 1: Technical Information Exchange

The objective of this Subtask is to achieve a balanced exchange of technical information between the Participants on ceramics for automotive gas turbine engines. Such an exchange shall include the following activities:

(a) Periodic exchanges of reports, studies and software packages, as follows:

The United States Participant will contribute:

(1) Semi-annual DOE Highway Vehicle Systems Contractor Co-ordination Meeting Reports;

(2) Semi-annual and annual reports and other significant findings of the organizations participating in the DOE Advanced Automotive Heat Engine Systems Development Project in the area of ceramic materials and components for gas turbine engines. The specific reports to be exchanged will be set forth in a document to be submitted by the United States Participant to the Operating Agent within thirty days after approval of this Annex.

The German Participant will contribute:

Semi-annual and annual reports of the organizations participating in the DFVLR Ceramic Components for Vehicular Gas Turbines Programme. The specific reports to be exchanged will be set forth in a document to be submitted by the German Participant to the Operating Agent within thirty days after approval of this Annex.

(b) Joint technical meetings;

(c) Reciprocal invitations to workshops and conferences; and

(d) Reciprocal visits to research facilities.

Subtask 2: Investigation of Ceramic Materials' Properties

The objective of this Subtask is to investigate mechanical properties of ceramic materials applicable to automotive gas turbines. The activities to be undertaken by the Participants shall include:

(a) Baseline Data on Selected Ceramic Materials. Each Participant shall provide pre-existing non-proprietary baseline physical and mechanical property data on the following materials potentially suitable for economic engine applications:

The German Participant will provide data on:

(1) Degussa, injection molded, reaction bonded silicon nitride (RBSN);

(2) Feldmühle AG, injection molded, RBSN;

The United States Participant will provide data on:

(1) Sintered alpha silicon carbide (SiC);

(2) RBSN (approximately 2.85 g/cm^3 density).

The data provided shall include a complete description of test methods used. The Executive Committee, acting by unanimity, may change the materials selected.

(b) Acceptable test bars. Each Participant shall provide bend-test bars of the materials selected by that Participant under paragraph *(a)* to the other Participants. At least 100 bend-test bars of each material shall be provided to each Participant. The Operating Agent shall prepare, in consultation with the Participants, the specification for the test bars (dimensions, surface finish, etc.), and shall submit it to the Executive Committee for approval prior to proceeding with the test bar exchange.

(c) Property measurement. Each Participant shall measure the flexure strength of the materials which they select and which are provided to them by other Participants pursuant to paragraph *(b)*. The Participants, by mutual

agreement, may use exchanged test bars in other tests including long-time gas turbine exposure tests. Test plans shall be as agreed to with the Operating Agent and within the limitations of each Participant's testing facilities.

(d) *Data analysis.* Data analysis by each Participant shall include statistical methods, fracture analysis, and other observations made during the course of investigation.

(e) *Reporting.* The Operating Agent, in consultation with all Participants, shall set up a format for reporting the test results in paragraphs *(b)* through *(d)* above. As soon as available, the Participants shall exchange the test data in the adopted format. The Operating Agent shall prepare a final report integrating all the test data.

Subtask 3: Exchange of Life Estimate Techniques and Results for Critical Components

The activities under this Subtask shall include:

(a) *Exchange of information.* The Participants shall exchange information on techniques used to predict fast fracture. static fatigue (slow crack growth) and creep life of critical engine components, including but not limited to, ceramic turbine wheels.

(b) *Testing of analytical techniques.* The Participants shall test the analytical techniques described in paragraph *(a)* against experimental data to be provided by the German Participant on a one piece integrally bladed turbine wheel design fabricated from Norton hot pressed silicon nitride (NC-132) and Annawerk hot pressed silicon nitride (HPSN). The data provided by the German Participant shall include sufficient hot spin and engine rig test results to allow statistical interpretation of the data.

(c) *Exchange of material property data.* The Participants will exchange material property data on Norton NC-132 and Annawerk—HPSN, including slow crack growth, flexual rate testing, and tensile tests. The United States Participant shall test Annawerk—HPSN to supplement its NC-132 data.

(d) *Exchange of results.* The Participants shall exchange the results of the life prediction analysis obtained in paragraph *(b)* above, in reports to be prepared by each.

(e) *Final Report.* The Operating Agent shall prepare a final report summarizing the results of the above activities.

Subtask 4: Nondestructive Evaluation of Ceramic Materials

The objective of this Subtask is to compare available non-proprietary techniques used for Nondestructive Evaluation (NDE). To achieve this objective, the Participants shall undertake the following activities:

(a) *Provision of "seeded defects" reference standard specimens.* The United States Participant shall provide the other Participants with "seeded defects' reference standard specimens and the results of X-ray, ultrasonic and other conventional NDE testing conducted on these specimens.

(b) *Comparison of results.* Each of the Participants shall subject these specimens to NDE, shall compare its results with those provided by the United States Participant and shall prepare a final report demonstrating the results of these comparisons.

4. *Time Schedule*

This Annex shall remain in force until 31st December, 1980. It shall continue in force thereafter unless and until the Executive Committee, acting by unanimity, decides on its termination.

5. *Responsibilities of the Operating Agent*

In addition to the responsibilities stated in *Subtasks 2* and *3* above, the Operating Agent shall prepare annual Subtask progress reports and a final report, containing the status and results of each Subtask and suggestions for future work. The Operating Agent shall also be responsible for the overall management of the Annex and for implementing the decisions of the Executive Committee.

6. *Funding*

Each Participant will bear all costs it incurs in carrying out the Task, including costs of materials, testing, transport, reporting and travel expenses of representatives.

7. *Operating Agent*

The United States Department of Energy.

8. *Information and Intellectual Property*

(a) *Executive Committee's Powers.* The publication, distribution, handling, protection and ownership of information and intellectual property arising from activities conducted under this Annex shall be determined by the Executive Committee, acting by unanimity, in conformity with this Annex.

(b) *Right to Publish.* Subject only to patents and copyright restrictions of this Annex, the Participants shall have the right to publish all information arising from the Programme except proprietary information but they shall not publish it with a view to profit, except as agreed by the Executive Committee, acting by unanimity.

(c) *Proprietary Information.* The Participants shall take all necessary measures in accordance with this Annex, the laws of their respective countries and international law to protect proprietary information. For the purposes of this Annex, proprietary information shall mean information

of a confidential nature such as trade secrets and know-how (for example, computer programmes, design procedures and techniques, chemical composition of materials, or manufacturing methods, processes, or treatments) which is appropriately marked, provided such information:

(1) Is not generally known or publicly available from other sources;

(2) Has not previously been made available by the owner to others without obligation concerning its confidentiality; and

(3) Is not already in the possession of the recipient Participants without obligation concerning its confidentiality.

It shall be the responsibility of each Participant supplying proprietary information to identify the information as such and to ensure that it is appropriately marked.

(d) *Production of Relevant Information by Governments.* The Operating Agent should encourage the governments of all Agency Participating Countries to make available or to identify to the Operating Agent all published or otherwise freely available information known to them that is relevant to the Task. The Participants should notify the Operating Agent of all pre-existing information, and information developed independently of the Task known to them which is relevant to the Task and which can be made available to the Task without contractual or legal limitations.

(e) *Reports on Programme Work.* Reports containing arising information and pre-existing information necessary for and used in the Task, including proprietary information, shall be provided to each Participant by the Participant performing the Task. It shall be the responsibility of each Participant to identify information which qualifies as proprietary information under this Annex and ensure it is appropriately marked. The Operating Agent shall provide summary reports of work performed under this Annex and results thereof (arising information), excluding proprietary information, to the Executive Committee.

(f) *Licensing of Proprietary Information.* Each Participant agrees to license all pre-existing proprietary information necessary for and used in its work in the Task and which it solely owns or controls to the Participants, their governments, and the nationals of their respective countries designated by them royalty-free for research, development and demonstration purposes (non-commercial uses) in the field of high temperature ceramic materials for automotive gas turbine engines. Each Participant agrees to license all arising proprietary information to the Participants, their governments, and the nationals of their respective countries designated by them:

(1) Royalty-free for use in their country only; and

(2) On reasonable terms and conditions for use in all other countries.

Each Participant agrees to license all such arising proprietary information to all Agency Participating Countries on reasonable terms and conditions for use in their own country in order to meet their energy needs.

(g) *Licensing of Patents Needed for Task.* Patents solely owned or controlled by a Participant which are needed for use in the Task shall be licensed to the Task Participant for use in the Task only at no cost to such Participant. If such patents are partially owned or controlled by a Participant, then efforts shall be made by the Participant to reduce or eliminate as possible the benefits that might accrue to it.

(h) *Arising Inventions.* Inventions made or conceived in the course of or under the Task (arising inventions) shall be owned in all countries by the inventing Participant. Information regarding inventions on which patent protection is to be obtained by the Participant shall not be published or publicly disclosed by the other Participants until a patent application has been filed, provided, however, that this restriction on publication or disclosure shall not extend beyond six months from the date of receipt of such information. It shall be the responsibility of the inventing Participant to appropriately mark reports which disclose inventions that have not been appropriately protected by the filing of a patent application.

(i) *Licensing of Inventions.* Each Participant agrees to license all arising inventions to the Participants, their governments and the nationals of their respective countries designated by them:

(1) Royalty-free for use in their country only; and

(2) On reasonable terms and conditions for use in all other countries.

Each Participant agrees to license all such arising inventions to all Agency Participating Countries on reasonable terms and conditions for use in their own country in order to meet their energy needs.

(j) *Copyright.* The Operating Agent or each Participant for its own part of the Task results may take appropriate measures necessary to protect copyrightable material generated under the Task. Copyrights obtained shall be the property of that Participant or the Operating Agent for the benefit of the Participants, provided, however, that the Participants may reproduce and distribute such material, but shall not publish it with a view to profit.

(k) *Inventors and Authors.* Each Participant shall, without prejudice to any rights of inventors or authors under its national laws, take all necessary steps to provide the co-operation from its authors and inventors required to carry out the provisions of this Annex. Each Participant will assume the responsibility to pay awards or compensation required to be paid to its employees according to the laws of its country.

(l) *Determination of "National"*. The Participants may establish guidelines to determine what constitues a "national" of a Participant.

9. *Participants*

The Contracting Parties which are Participants in this Task are the following:

The Deutsche Forschungs- und Versuchsanstalt für Luft- und Raumfahrt e.V. (DFVLR) (Germany).

The United States Department of Energy.

The Legal Advisor of the International Energy Agency hereby certifies that the present copy conforms to the original text deposited with the Executive Director of the International Energy Agency.

Paris, 24th April, 1980

THE LEGAL ADVISOR:

RICHARD F. SCOTT

MULTILATERAL

Energy: Hot Dry Rock Technology

Implementing agreement done at Paris September 18, 1979;
Entered into force October 1, 1979.

INTERNATIONAL ENERGY AGENCY

IMPLEMENTING AGREEMENT
FOR A PROGRAMME OF RESEARCH, DEVELOPMENT AND DEMONSTRATION ON HOT DRY ROCK TECHNOLOGY

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Annex

THE FENTON HILL HOT DRY ROCK GEOTHERMAL PROJECT 16 2422

INTERNATIONAL ENERGY AGENCY

IMPLEMENTING AGREEMENT
FOR A PROGRAMME OF RESEARCH, DEVELOPMENT AND DEMONSTRATION ON HOT DRY ROCK TECHNOLOGY

The Contracting Parties

CONSIDERING that the Contracting Parties, being either governments of International Energy Agency ("Agency") countries, governments of other countries invited by the Governing Board of the Agency to be Contracting Parties, international organizations or parties designated by their respective governments, wish to take part in the establishment and operation of a Programme of Research, Development and Demonstration on Hot Dry Rock Technology ("Project") as provided in this Agreement;

CONSIDERING that the Contracting Parties which are governments of Agency Countries and the governments of Agency Countries which have designated Contracting Parties (referred to collectively as the "Governments") have agreed in Article 41 of the Agreement on an International Energy Program [1] (the "I.E.P. Agreement") to undertake national programmes in the areas set out in Article 42 of the I.E.P. Agreement, including energy research and development, and have referred in Chapter IV of the Long-Term Co-operation Programme, adopted by the Governing Board of the Agency on 30th January, 1976, [2] to the establishment of a co-operative programme on Geothermal Energy;

CONSIDERING that in the Governing Board of the Agency on 28th June, 1977 the Governments approved the Programme as a special activity under Article 65 of the I.E.P. Agreement;

CONSIDERING that the Agency has recognized the establishment of the Project as an important component of international co-operation in the field of geothermal energy research and development;

HAVE AGREED as follows:

[1] Done Nov. 18, 1974. TIAS 8278; 27 UST 1708.
[2] TIAS 8229; 27 UST 243.

Article 1

OBJECTIVES

The Contracting Parties, in accordance with the provisions of this Agreement, agree to co-operate in research activities on the development of hot dry rock technology. The activities shall be comprised of those of the Fenton Hill Project managed by the Los Alamos Scientific Laboratory (LASL) which is operated by the University of California under a contract with the United States Department of Energy and additional tests, studies, analyses and experiments. These activities shall be known collectively as the Project which is set forth in the Annex hereto.

Article 2

SCOPE OF PROGRAMME

(a) *Areas of Co-operation.* Areas of co-operation between the Contracting Parties in the activities to be conducted under this Agreement shall include:

(1) Exchange of information between the Contracting Parties in the areas set forth in the Annex;

(2) Assignment of up to three experts from each Contracting Party for as long as 4 years to participate in the planning, conduct and analysis of the work described in the Annex; and

(3) Assignment of a maximum of three additional experts from a Contracting Party at any one time for limited periods of time (3 to 6 months).

(b) *U.S. Department of Energy Responsibility.* Aside from the responsibilities of the Steering Committee as set forth in Article 3 *(c)*, the U.S. Department of Energy shall have the sole responsibility for the planning, implementation and supervision of the Project. Control of the research activities of the Project in which the Contracting Parties take part shall be exercised by the U.S. Department of Energy in accordance with the aforementioned contract.

(c) *Participation in Meetings.* The experts of each Contracting Party have the right to participate in the meetings of LASL review or planning groups concerned with the Project, and may make suggestions to those groups.

(d) *Availability of Data.* All data and information associated with the planning, conduct and analysis of the work described in the Annex shall be made available to the Contracting Parties and its assigned personnel.

(e) *Reports.* Reports of joint activities carried out under this Agreement generally shall be published as joint publications, as mutually agreed by the Contracting Parties.

(f) *Arrangements for Personnel Assignments.* All co-operative activities involving assignments of the experts shall be carried out in accordance with specific arrangements between the sending Contracting Party and LASL.

Article 3

STEERING COMMITTEE

(a) *Composition.* There is hereby established a Steering Committee consisting of four members. Each Contracting Party shall designate members of the Steering Committee in proportion to its financial contribution to the Project. In addition, each Contracting Party may designate up to two technical advisors to attend the meetings of the Steering Committee.

(b) *Procedures.* The Steering Committee shall carry out its responsibities set forth below in accordance with the following procedures:

(1) The Steering Committee shall meet in regular session twice each year at LASL. A special meeting shall be convened upon the request of any Contracting Party which can demonstrate the need therefor.

(2) The Steering Committee shall each year elect a Chairman and one or more Vice-Chairmen.

(3) The Steering Committee may establish such subsidiary bodies and rules of procedure as are required for its proper functioning. A representative of the Agency may attend meetings of the Steering Committee and its subsidiary bodies in an advisory capacity.

(4) At least twenty-eight days before each meeting of the Steering Committee, notice of the time, place and purpose of the meeting shall be given to each Contracting Party and to other persons or entities entitled to attend the meeting. Notice need not be given to any person or entity otherwise entitled thereto if notice is waived before or after the meeting.

(5) The quorum for the transaction of business in meetings of the Steering Committee shall be one-half of the members plus one.

(6) Where this Agreement requires the Steering Committee to act by unanimity, this shall require the agreement of each member present and voting at the meeting at which the decision is taken, and in respect of all other decisions and recommendations for which no express voting provision is made in this Agreement, the Steering Committee shall act by a majority vote of those present and voting. With the agreement of each Contracting Party a decision or recommendation may be made by telex or cable without the necessity for calling a

meeting. The Chairman of the Steering Committee shall have the responsibility of ensuring that all Contracting Parties are informed of each decision or recommendation made pursuant to this Article.

(c) *Responsibities.* The Steering Committee shall have the following responsibilities:

(1) Adopt by unanimity any major changes in the scientific, technical, schedule and financial terms of the Annex hereto. A "major change" means any modification to the Project defined in the Annex which would result in a change of more than 25% in the annual contribution of each Contracting Party or a variation in the schedule in excess of three months or any modification of the basic concept which consists of continued operation of the Phase I circulation system, creating the Phase II system, and development of the DWETS facility as defined in the Annex to this Agreement.

(2) Propose such rules and regulations as may facilitate the sound management of the Project.

(3) Review each year's programme of work together with an indicative programme of work for the following year.

(4) Review the progress of the work whenever any Contracting Party so requests.

(5) Consider any matters submitted to it by a Contracting Party.

(d) *Reports.* The Steering Committee shall, at least annually, provide the Agency with periodic reports on the progress of the activities.

Article 4

FINANCE

(a) *Determination of Contributions.* In consideration of the participation afforded and data received under this Agreement, each Contracting Party other than the U.S. Department of Energy shall make a cash contribution equivalent to 25% of the annual U.S. Department of Energy funding of the Project budget, up to 2.5 million dollars per year calculated from 1st October, 1979. In addition, each Contracting Party, other than the U.S. Department of Energy, shall be responsible for the full support of its personnel assigned to work on the Fenton Hill Project, which costs are estimated not to exceed $500,000 per year. Such costs shall include salaries, living and travel expenses. The contributions of all Contracting Parties other than the U.S. Department of Energy shall be limited to a maximum of 50% of the U.S. Department of Energy Project costs for the period covered by the Agreement.

(b) *Form of Contributions.* The cash contributions under paragraph *(a)* above shall be made in U.S. dollars in quarterly payments in advance upon receipt of an invoice and in accordance with procedures to be identified by the U.S. Department of Energy prior to the first payment.

(c) *Costs of Parties' Participation.* Aside from the contributions described in paragraph *(a)* above each Contracting Party shall bear all costs of its own participation in the Project.

(d) *Availability of Funds.* Each Contracting Party's obligation under this Agreement is subject to the availability of appropriated funds. In the event of the inability of the U.S. Department of Energy to carry out the Project as set forth in the Annex, in whole or in part, for lack of appropriated funds, the settlement of payments from each Contracting Party to the U S. Department of Energy and the furnishing of information from the U.S. Department of Energy to each Contracting Party shall be negotiated on a pro-rata basis.

(e) *Financial Records.* The U S. Department of Energy shall maintain complete financial records for contributions from the other Contracting Parties which shall clearly account for all such funds coming into the possession of the U.S. Department of Energy. The U.S. Department of Energy shall annually provide a certification to the other Contracting Parties of the amount of such funds utilized; such certification shall be transmitted by the U.S. Department of Energy to the other Contracting Parties within three months following the end of each fiscal year and bearing a certification common at the U.S. Department of Energy. Overpayments of funds by a Contracting Party within a fiscal year as determined on the basis of the above certification shall be credited to the contribution required by that Contracting Party in the following year. Any overpayments at the termination of this Agreement are to be repaid without delay. The U.S. Department of Energy shall provide to the other Contracting Parties within three months after the end of the fiscal year an accounting of the total funds expended on the Project for the fiscal year.

Article 5

INFORMATION AND INTELLECTUAL PROPERTY

(a) *Right to Publish.* Subject only to patent and copyright restrictions, Contracting Parties shall have the right to publish all information provided to or arising from this Agreement, except proprietary information. However, in order that public disclosure of inventions will not adversely affect the particular interest of the Contracting Parties, patent approval for release or publication of results from this Agreement shall be obtained from the U.S. Department of Energy prior to any release or publication.

(b) *Confidential Information.* If a Contracting Party has access to confidential information which would be useful to the activities under this Agreement, such information may be communicated to personnel within the U.S. Department of Energy and LASL charged with the management of the Hot Dry Rock Geothermal Energy Program but shall not be accepted for the Project except as agreed in writing between the U.S. Department of Energy and the Contracting Party which supplies such information and on terms and conditions stipulated in such writing.

(c) *Proprietary Information.* The Contracting Parties shall take all necessary measures in accordance with this Article, the laws of their respective countries and international law to protect proprietary information provided to or arising from this Agreement. For the purposes of this Agreement, proprietary information shall mean information of a confidential nature such as trade secrets and know-how (for example, computer programmes, design procedures and techniques, chemical composition of materials or manufacturing methods, processes, or treatment) which is appropriately marked, provided such information:

(1) Is not generally known or publicly available from other sources;

(2) Has not previously been made available by the owner to others without obligation concerning its confidentiality; and

(3) Is not already in the possession of the recipient Contracting Party or its Contractor without obligation concerning its confidentiality.

It shall be the responsibility of each Contracting Party supplying proprietary information to identify the information as such and to ensure that it is appropriately marked.

(d) *Production of Relevant Information by Governments.* The Contracting Parties should encourage the governments of all Agency Participating Countries to make available or to identify to Contracting Parties all published or otherwise freely available information known to them that is relevant to the Agreement.

(e) *Provision of Available Information by Contracting Parties.* Each Contracting Party shall provide to the other Contracting Parties all previously existing information, and information developed independently of the co-operative activities under this Agreement, which is relevant to the work to be conducted under this Agreement and which is freely at the disposal of the Contracting Party and the transmission of which is not subject to any contractual and/or legal limitations.

(f) *Arising Inventions.* Inventions made or conceived in the course of or under the Agreement (arising inventions) shall be owned by each Contracting Party in its own country and by the U.S. Department of Energy in third countries. Each Contracting Party agrees to grant to the other Contracting Parties a non-exclusive, royalty-free license to all such arising inventions.

(g) *Reports on Work Performed.* Reports of all work performed under this Agreement and the results thereof, including studies, assessments, analyses, evaluations and other documentation, but excluding proprietary information, shall be issued in the form of annual joint reports of the Contracting Parties.

(h) *Inventors.* Each Contracting Party will, without prejudice to any rights to inventors under its national laws, take necessary steps to provide the co-operation from its inventors required to carry out the provisions of this Article. Each Contracting Party will assume the responsibility to pay awards or compensation required to be paid to its employees according to the laws of its country.

Article 6

ASSIGNMENT OF PERSONNEL

(a) *Procedures.* For each assignment of personnel pursuant to Article 2 the following procedures shall be applied:

(1) Each Contracting Party shall submit its nominations to the U.S. Department of Energy at least three months prior to the expected assignment date. Each such nomination shall specify the qualifications of the expert and the intended work plan to be followed by the expert at LASL;

(2) The U.S. Department of Energy shall, as soon as practicable, notify the assigning Contracting Party of the acceptability of the assignment; and

(3) The assignment of personnel may be implemented only after the assigning Contracting Party and LASL have concluded a personnel assignment agreement setting forth the specific terms applicable to the assignment.

(b) *Expenses.* All personal expenses associated with an assignment shall be borne by the assigning Contracting Party unless the U.S. Department of Energy agrees otherwise. Such expenses shall include, but not be limited to, salaries, costs of travel, insurance and living expenses of the assigned personnel.

(c) *Assistance.* The U.S. Department of Energy shall provide all necessary assistance to the Contracting Parties' assigned personnel and to their families as regards administrative formalities, travel arrangements, and other personal arrangements.

(d) *Work Rules and Safety.* The assigned personnel of the Contracting Parties shall conform to the general rules of work and safety regulations in force at LASL.

(e) *Status of Assigned Personnel.* Assigned personnel shall in no way be deemed to be employees of LASL or the U.S. Department of Energy by virtue of their assignment.

(f) *Legal Responsibility.* The assigning Contracting Party agrees to indemnify and hold harmless the U.S. Department of Energy, and any person acting on its behalf for any damages, liabilities or costs arising out of the gross negligence or intentional misconduct of the assigned personnel under an agreement entered into in accordance with sub-paragraph *(a)* (3) of this Article; provided, however, this provision shall not apply to damages, liabilities or costs insofar as and to the extent that they arise out of the gross negligence or intentional misconduct of the U.S. Department of Energy or persons acting on its behalf. Damages other than those provided for above shall be compensated for by the Contracting Parties in accordance with the laws of the Contracting Parties.

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Article 7

LEGISLATIVE PROVISIONS

(a) *Accomplishment of Formalities.* Each Contracting Party shall request the appropriate authorities of its country (or its Member States in the case of an international organization) to use their best endeavours, within the framework of applicable legislation, to facilitate the accomplishment of formalities involved in the movement of persons, the importation of materials and equipment and the transfer of currency which shall be required to conduct the Project.

(b) *Applicable Laws.* In carrying out this Agreement, the participation of the Contracting Parties shall be subject to the appropriation of funds by the appropriate governmental authority, where necessary, and to the constitution, laws, and regulations applicable to the respective Contracting Parties, including, but not limited to laws establishing prohibitions upon the payment of commissions, percentages, brokerage or contingent fees to persons retained to solicit governmental contracts and upon any share of such contracts accruing to government officials.

(c) *Decisions of Agency Governing Board.* The Contracting Parties shall take account, as appropriate, of the Guiding Principles of Co-operation in the Field of Energy Research and Development [1] and any modification thereof, as well as other decisions of the Governing Board of the Agency in that field. The termination of the Guiding Principles shall not affect this Agreement, which shall remain in force in accordance with the terms hereof.

(d) *Settlement of Disputes.* Any dispute among the Contracting Parties concerning interpretation or the application of this Agreement which is not settled by negotiation or other agreed mode of settlement shall be referred to a tribunal of three arbirators to be chosen by the Contracting Parties concerned who shall also choose the Chairman of the tribunal. Should the Contracting Parties concerned fail to agree upon the composition of the tribunal or the selection of its Chairman, the President of the International Court of Justice shall, at the request of any of the Contracting Paries concerned, exercise those responsibilities. The tribunal shall decide any such dispute by reference to the terms of this Agreement and any applicable laws and regulations, and its decision on a question of fact shall be final and binding on the Contracting Parties concerned.

(e) *Right to Enter into Other Arrangements.* Nothing in this Agreement shall affect the Contracting Parties' rights to enter into other arrangemens for the conduct of activities associated with the subject matter of this Agreement.

[1] Adopted by the Governing Board of the International Energy Agency on July 28, 1975. TIAS 8229; 27 UST 249.

Article 8

ADMISSION AND WITHDRAWAL OF CONTRACTING PARTIES

(a) *Admission of New Contracting Parties: Agency Countries.* Upon the invitation of the Contracting Parties, acting by unanimity, admission to this Agreement shall be open to the government of any Agency Participating Country (or national agency, public organization, private corporation, company or other entity designated by such government), which signs or accedes to this Agreement, accepts the rights and obligations of a Contracting Party, and is accepted for participation by the Contracting Parties, acting by unanimity. Such admission of a Contracting Party shall become effective upon the signature of this Agreement by the new Contracting Party or its accession thereto and its giving notice of participation and the adoption of any consequential amendments thereto.

(b) *Admission of New Contracting Parties: Other OECD Countries.* The government of any Member of the Organisation for Economic Co-operation and Development which does not participate in the Agency may, on the proposal of Contracting Parties acting by unanimity, be invited by the Governing Board of the Agency to become a Contracting Party to this Agreement (or to designate a national agency, public organization, private corporation, company or other entity to do so), under the conditions stated in paragraph *(a)* above.

(c) *Participation by the European Communities.* The European Communities may participate in this Agreement in accordance with arrangements to be made by the Contracting Parties, acting by unanimity.

(d) *Contributions.* The Contracting Parties may require, as a condition to admission to participation, that the new Contracting Party shall contribute (in the form of cash, services, materials or intellectual property) an appropriate proportion of the prior budget expenditure.

(e) *Replacement of Contracting Parties.* With the agreement of the Contracting Parties, acting by unanimity and upon the request of a government, a Contracting Party designated by that government may be replaced by another party. In the event of such replacement, the replacement party shall assume the rights and obligations of a Contracting Party as provided in paragraph *(a)* above and in accordance with the procedure provided therein.

(f) *Withdrawal.* Any Contracting Party may withdraw from this Agreement either with the agreement of the Contracting Parties, acting by unanimity, or by giving twelve months written Notice of Withdrawal to the Executive Director of the Agency, such notice to be given not less than one year after the date hereof. The withdrawal of a Contracting Party under this paragraph shall not affect the rights and obligations of the other Contracting Parties.

(g) *Change of Status of Contracting Party.* A Contracting Party other than a government or an international organization shall forthwith notify all the other Contracting Parties of any significant change in its status or ownership, or of its becoming bankrupt or entering into liquidation. All the Contracting Parties jointly shall determine whether

any such change in status of a Contracting Party significantly affects the interests of the other Contracting Parties; if the other Contracting Parties so determine, acting by unanimity:

(1) That Contracting Party shall be deemed to have withdraw from the Agreement under paragraph *(f)* above on a date to be fixed by the other Contracting Parties, acting by unanimity; and

(2) The Contracting Party shall invite the government which designated that Contracting Party to designate, within a period of three months of the withdrawal of that Contracting Party, a different entity to become a Contracting Party. If approved by the other Contracting Parties, acting by unanimity, such entity shall become a Contracting Party with effect from the date on which it signs or accedes to this Agreement and gives the Executive Director of the Agency a notice of participation.

(h) *Failure to Fulfill Contractual Obligations.* Any Contracting Party which fails to fulfill its obligations under this Agreement within sixty days after its receipt of notice specifying the nature of such failure and invoking this paragraph, may be deemed by the other Contracting Parties, acting by unanimity, to have withdrawn from this Agreement.

Article 9

FINAL PROVISIONS

(a) *Term of Agreement.* This Agreement shall enter into force on 1st October, 1979 and remain in force for an initial period of four years, and shall continue in force thereafter if the Contracting Parties so decide, acting by unanimity.

(b) *Legal Relationship of Contracting Parties.* Nothing in this Agreement shall be regarded as constituting a partnership between any of the Contracting Parties.

(c) *Amendment.* This Agreement may be amended at any time by the Contracting Parties, acting by unanimity. Such amendments shall come into force in a manner determined by the Contracting Parties, acting by unanimity.

(d) *Deposit.* The original of this Agreement shall be deposited with the Executive Director of the Agency and a certified copy thereof shall be furnished to each Contracting Party. A copy of this Agreement shall be furnished to each Agency Participating Country, to each Member country of the Organisation for Economic Co-operation and Development and to the European Communities.

Done in Paris, this 18th day of September, 1979.

For the KERNFORSCHUNGSANLAGE JÜLICH GmbH (designated by the Government of Germany): i.V. NEUMANN
i.V. NIERAAD

For the DEPARTMENT OF ENERGY for and on the behalf of the Government of the United States of America: JACK VANDERRYN

Annex

THE FENTON HILL HOT DRY ROCK GEOTHERMAL PROJECT

A. *Background*

The Hot Dry Rock Geothermal Energy Program began in 1972 as a research, development and demonstration project at the Los Alamos Scientific Laboratory (LASL). The project, known as the Fenton Hill Project, has been supported exclusively by the U.S. Department of Energy and its predecessors. The project derives its name from the test site, Fenton Hill, located about 55 km west of Los Alamos, New Mexico. The site is on the western rim of the Valles Caldera, a young silicic volcano which was active as recently as one million years ago.

Until 1978 the major thrust of the project was to confirm experimentally a hot dry rock (HDR) heat extraction technique proposed by LASL. That technique involves circulating water through a geothermal reservoir created by the hydraulic fracturing of hot, impermeable rock between two boreholes. In 1977-1978, LASL accomplished the objectives of the first of the project's two planned phases. Heat was extracted from a 5 MWt, HDR thermal loop for short periods of time. With that success, the Program was expanded in 1978 to include activities other than the Fenton Hill Project, primarily resource assessment efforts in other parts of the United States. Meanwhile, the second phase of the project is continuing as planned.

The Fenton Hill Project serves a dual purpose: first, as a HDR energy extraction demonstration, and secondly, as a field laboratory for the development and testing of materials, drilling-related equipment, and downhole instrumentation. This Annex defines the activities which comprise the Fenton Hill Project and are subject to the conditions of the Implementing Agreement.

B. *Development Sequence*

1. *Fenton Hill Operations*

The Phase I (5 MWt nominal) reservoir was established in its present configuration in 1977, and the associated experimental program will be concluded in the near future. This small system is being used to:

(a) demonstrate initial technical feasibility;

(b) provide short-term information on predictability of drawdown, time-variation of impedance, water loss rate, geofluid chemistry, and stop/start transients;

(c) serve as a test bed for evaluation of reservoir enhancement techniques, such as operation under high back pressure;

(d) evaluate high-risk/high-payoff reservoir-extension workover techniques; and

(e) conduct a small preliminary electric generation experiment.

All Phase I work should be completed by the end of Fiscal year 1980 (September 30, 1980) or early Fiscal year 1981.

The planned sequence for the continuation of the Fenton Hill Project is shown in Figure I. In parallel with the completion of the Phase I effort, planning and initiation of the Phase II system has proceeded.

The primary objective of the Phase II effort is to demonstrate reservoir longevity by creating a larger system (20-50 MWt) with a projected life in excess of 10 years. A third well, EE-2 is being drilled at the site to a bottom-hole temperature of 250-275 degrees C. This well will serve as the injection well for the Phase II system. Drilling of the EE-2 well began in April, 1979 and will continue until a bottom-hole temperature of approximately 275 degrees C (~ 4 km) is attained). A fourth well, EE-3, will be drilled to serve as the Phase II production well. During this drilling an extensive series of diagnostic and fracture experiments will be carried out in the EE-2 wellbore. The drilling of EE-3 should begin in early Fiscal year 1980. Afterwards, about 6 months will be devoted to completion of the subterranean circulation system, followed by a comprehensive set of communication tests.

Design and construction of the Phase II surface system will parallel establishment of the reservoir. Long-lead procurements will be initiated early, including high-pressure, remote-operated valves, air-cooled heat-exchanger units, and additional circulation pumps, if required. Construction of the surface system will begin in the first quarter of Fiscal year 1981, partially overlapping the drilling of EE-3. The surface system is scheduled to be completed in Fiscal year 1982. The installation will be designed such that most of it, other than air-rejection heat exchangers, could be used for a possible follow-on electric pilot plant. Upon completion of construction, the Phase II loop will be activated for a protracted energy-extraction test.

It is estimated that after 6-8 months of continuous operation, it will be possible to define the minimum reservoir lifetime with some confidence. This would occur at about the end of Fiscal year 1982. Testing of the Phase II reservoir will continue for about 2 years beyond this point.

2. *DWETS Facility*

In addition to demonstrating the LASL HDR utilization scheme, Fenton Hill is also a research site. One major research area is the development of downhole instruments and equipment for geothermal wells, specifically those either peculiar to HDR needs or for which the need arises earlier in the HDR program. A dedicated wellbore is an important adjunct to downhole instruments and equipment development. Suitably outfitted, such a wellbore could be used for controlled, *in situ* tests of prototype hardware. It is therefore planned, in the course of creating the Phase II reservoir, to deepen GT-2 well as an equipment test facility. This well will be deepened in late Fiscal year 1980 or early Fiscal year 1981. With the addition of a cable-handling rig, a structure to contain high-pressure pumping equipment, data acquisition and processing equipment, and a tool preparation area, this small complex will become the Deep-Wellbore Equipment Test-Station (DWETS).

It is anticipated that the DWETS will be operational in the last quarter of Fiscal year 1981. The *in situ* test capability provided by this facility will complement the simulated wellbore test capabilities of LASL's Instrument Sonde Test Facility, which will have initial operational capability in Fiscal year 1979 and be up-graded in Fiscal year 1981. Besides testing equipment developed for the Fenton Hill Project, the DWETS will be available to anyone on a non-interference basis to test equipment developed for other geothermal applications. Operation of the DWETS facility at Fenton Hill is expected to continue beyond Fiscal year 1985 for as long as it proves useful to the U.S. geothermal program.

3. *Supporting Activities*

Of paramount importance to the project activities at the Fenton Hill site are a group of on-going support activities. These include:

— Theoretical analysis, data processing, and modeling. This includes not only analysis of data on the characteristics and behavior of the existing Fenton Hill system but also predictions concerning hot dry rock geothermal systems in general.

— Laboratory studies, including rock properties measurements, chemical analyses, and simulations. Determination of physical and mechanical properties and heat transfer and fracturing behavior of reservoir rocks is essential to understand and model reservoir behavior.

— Chemical studies of rock-water interactions. Both laboratory and field experiments are needed to anticipate and solve scaling, plugging and corrosion problems.

— Physical modeling to investigate such things as thermal stress cracking and fluid flow in irregular geometries.

— Instrumentation development. Improved equipment and techniques are needed to map reservoir fracture systems and determine reservoir properties.

— Environmental surveillance. Possible seismic, hydrologic, and microclimatological effects should be monitored, not only to ensure protection of the Fenton Hill environment but also to provide a documented case history for use in future environmental analyses, assessments, and impact statements.

Supporting activities will continue through Fiscal year 1985.

C. *Possible Electric Generation Pilot Plant*

Fenton Hill could be an excellent site for the construction of an electric generation pilot plant using HDR energy. However, the realization of such a pilot plant will depend upon:

(1) successful demonstration of the Phase II reservoir;

(2) availability of funding; and

(3) direct involvement of a public utility.

At present no commitment has been made to design and build an electric generation pilot plant at Fenton Hill. Thus construction of a pilot plant is not included as part of the Fenton Hill Project as defined herein. However, as noted in paragraph B (1), the Phase II surface system will be designed so that the possible establishment of such a plant will not be hampered or precluded. Further, the preliminary planning needed to support a decision about a pilot plant at Fenton Hill will be conducted during Phase II.

D. *Estimated Costs*

The cost estimates for the Fenton Hill Project are based on the development sequence described above, exclusive of any pilot plant design or construction costs. These estimates include support of LASL scientific effort and project management, contractual services for reservoir development and surface system construction, and equipment development and test facilities. The estimated costs in millions of dollars are given in Table I; they are listed as the projected actual costs for the year in which they are accrued.

E. *Other Enhancements*

Any Contracting Party can propose additional studies, experiments, tests, or analyses. The Steering Committee will decide whether such proposed new work should become part of the Project. The decision criteria for selecting additional work will be: technical merit, relevance to the Project's objectives, impact on planned work (including schedules), and availability of funds.

Table I

FENTON HILL PROJECT DEVELOPMENT SEQUENCE
ESTIMATED COSTS ($M)

Activity	Fiscal Years					Total
	1980	1981	1982	1983	1984	
1. Phase I Reservoir (5 MWt) Assessment	1.5	0.5	—	—	—	2.0
2. Phase II Reservoir (20-50 MWt) Establishment	6.6	5.7	4.6	—	—	16.9
3. Phase II Reservoir Assessment	1.6	3.1	5.6	7.6	5.7	23.6
4. Instrument and Equipement Development	3.2	3.2	3.7	3.6	3.6	17.3
5. Supporting Activities	1.6	2.0	2.6	3.3	3.2	12.7
Total	14.5	14.5	16.5	14.5	12.5	72.5

Figure I HDR SITE I (FENTON HILL, N. M.) DEVELOPMENT SCHEDULE

The Legal Advisor of the International Energy Agency hereby certifies that the present copy conforms to the original text deposited with the Executive Director of the International Energy Agency (as amended to the date hereof, by agreement of the Contracting Parties).

Paris, 23rd April, 1980

THE LEGAL ADVISOR:

INTERNATIONAL ENERGY AGENCY
OFFICE OF THE LEGAL ADVISOR
IEA

RICHARD F SCOTT

OMAN

Economic and Technical Cooperation: Joint Commission

Agreement signed at Muscat August 19, 1980;
Entered into force August 19, 1980.

Agreement between the Government of the United States of America and the Government of the Sultanate of Oman to Establish a Joint Commission on Economic and Technical Cooperation

The Government of the United States of America and the Government of the Sultanate of Oman,

Having the mutual desire to develop and strengthen relations between their two countries,

Determined, in particular, to promote economic and technical cooperation between their two countries,

Have agreed as follows:

Article 1

The Government of the United States of America and the Government of the Sultanate of Oman hereby establish a Joint Commission on Economic and Technical Cooperation.

Article 2

The Commission shall be headed jointly by the United States Ambassador to Oman for the United States and by an Omani official to be designated for this purpose for Oman. The representation of each Government may include, as appropriate, representatives of concerned agencies, departments or ministries.

Article 3

The Commission shall seek to develop and strengthen, to the greatest possible extent, economic and technical cooperation between the United States and Oman. Activities of the Commission undertaken in fulfillment of this objective may include, among others:

(1) periodic review of matters involving the cooperative efforts of the two countries in economic and technical areas, including

review of the implementation of relevant economic and technical agreements which may be in force from time to time between the two countries;

(2) identification and exploration of areas for enhanced economic and technical cooperation between the two countries;

(3) recommendation of specific projects, programs or other activities or measures which will encourage and facilitate growth and development through cooperation between the two countries on economic and technical matters.

Article 4

This Agreement shall enter into force on the date of signature and shall remain in effect for ten years, subject to extension as mutually agreed, and it may be terminated at any time by either party by one year's written notice to the other party.

After the expiration of the first five years of the term of the Agreement, and every five years thereafter, the Agreement shall be reviewed by the parties in order to determine whether any modification of its provisions may be appropriate in the light of circumstances then prevailing.

Unless otherwise agreed, termination of this Agreement or of the activities of the Commission shall not affect the validity or duration of any other agreements entered into by the two Governments in the area of economic or technical cooperation.

Article 5

This Agreement shall enter into force on the date of signature hereof.

Done in Muscat August 19, 1980, in two original copies each in English and Arabic, both texts being equally authentic.

Stephen W. Buck [1]

For the Government of
the United States of America

[2]

For the Government of
the Sultanate of Oman

[1] Stephen W. Buck.
[2] Yusuf Al-Alawi.

اتفاقية بين حكومة الولايات المتحدة الامريكية
وحكومة سلطنة عمان لانشاء لجنة
مشتركة للتعاون الاقتصادى والفنى

ان حكومة الولايات المتحدة الامريكية وحكومة سلطنة عمان بما لديهما من الرغبة المتبادلة لتنمية وتقوية العلاقات بين بلديهما وعلى وجه الخصوص تدعيم التعاون الاقتصادى والفنى بينهما، فقد اتفقتا على ما يلى :-

مادة (١) : تشكل حكومة الولايات المتحدة الامريكية وحكومة سلطنة عمان لجنة مشتركة للتعاون الاقتصادى والفنى .

مادة (٢) : تكون رئاسة اللجنة مشتركة يرأسها سفير الولايات المتحدة لدى سلطنة عمان عن الولايات المتحدة ومسؤول عمانى يعين لهذا المنصب عن سلطنة عمان . ان تمثيل كل حكومة قد يشمل حسبما تقتضيه الظروف ممثلين عن الوكالات والدوائر أو الوزارات المعنية .

مادة (٣) : تبذل اللجنة اقصى جهودها لتنمية وتقوية التعاون الاقتصادى والفنى بين الولايات المتحدة الامريكية وسلطنة عمان ... ومن بين الانشطة المطلوب من اللجنة القيام بها هى :-

أ - النظر دوريا فى المسائل المتعلقة بالجهود المبذوله لتعاون البلدين فى المجالات الاقتصادية والفنية بما فى ذلك مراجعة تنفيذ الاتفاقيات الاقتصادية والفنية التى قد تكون قائمة بين حين وآخر بين البلدين .

ب - التعرف واستكشاف مجالات تعزيز التعاون الاقتصادى والفنى بين البلدين .

ج - تزكية المشاريع أو البرامج أو أى انشطة اخرى أو الوسائل التى ستشجع وتسهل التنمية والتطوير من خلال التعاون الاقتصادى والفنى بين البلدين .

مادة (٤) : يسرى مفعول هذه الاتفاقية لمدة عشر سنوات قابلة للتجديد باتفاق الطرفين ويجوز انهائها باخطار أحد الطرفين للاخر كتابيا فى أى وقت بمهلة سنة واحدة .

بعد انتهاء السنوات الخمس الاولى من سريان هذه الاتفاقية يعيد الطرفان مراجعتها كل خمس سنوات لاقرار أى تعديلات قد تطرأ حسبما تمليه الظروف فى حينها ، مالم يوجد اتفاق آخر بين الطرفين المتعاقدين فان انهاء هذه الاتفاقية أو نشاطات اللجنة لا يؤثر على نفاذ أو استمرار أى اتفاق آخر معقود بين البلدين فى مجال التعاون الاقتصادى والفنى.

مادة (٥) : تصبح هذه الاتفاقية نافذة المفعول من تاريخ التوقيع عليها .

حررت فى مسقط بتاريخ ١٩ اغسطس ١٩٨٠ من نسختين اصليتين باللغة الانكليزية وباللغة العربية ولكل منهما حجية متساوية .

عن حكومة سلطنة عمان

عن حكومة الولايات المتحدة الامريكية

SOUTH AFRICA

Postal: Express Mail Service

Agreement, with detailed regulations, signed at Pretoria and Washington May 25 and June 29, 1981;
Entered into force July 1, 1981.

INTERNATIONAL EXPRESS

MAIL AGREEMENT

BETWEEN

THE UNITED STATES POSTAL SERVICE

AND

THE DEPARTMENT OF POSTS AND TELECOMMUNICATIONS

OF THE REPUBLIC OF SOUTH AFRICA

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Preamble

The undersigned, by virtue of the authority vested in them, have concluded the following Agreement.

Article 1 Purpose of the Agreement

This Agreement shall govern the exchange of International Express Mail between the United States of America and the Republic of South Africa, including any areas for which the postal administrations of these countries exercise International Express Mail responsibilities.

Article 2 Definitions

As used herein the following terms shall have the indicated meanings:

1. Administration - an abbreviated form used to refer to one of the postal administrations of the countries signatory to this Agreement;

2. Articles and Sections - Articles and Sections of this Agreement, except when the context indicates an article is or can be inserted into an item;

3. Convention - the Universal Postal Convention[1] adopted by the Congress of the Universal Postal Union from time to time;

[1] TIAS 5881, 7150, 8231, 9972; 16 UST 1291; 22 UST 1056; 27 UST 345; 32 UST 4587.

4. Detailed Regulations of the Convention - the Detailed Regulations of the Universal Postal Convention enacted by the Congress of the Universal Postal Union from time to time;

5. International Express Mail service - the service established by this Agreement, the domestic counterparts of which are Express Mail service in the United States and Priority Mail in the Republic of South Africa;

6. Scheduled service - an International Express Mail service option which allows a sender to enter into a contractual arrangement to mail items on a designated schedule to designated addressees;

7. On-demand service - an International Express Mail service option which allows a sender to mail an item on a non-contractual basis and without any requirements for scheduling or prior designation of addressee;

8. References to the regulations of either administration or to the internal legislation of either country are to the general regulations or legislation governing the matter in question which are applicable regardless of the country of origin.

Article 3 Scheduled Service

1. Each administration shall offer scheduled service on a contractual basis to customers who agree to use the service on a designated schedule to send items to designated addressees.

2. Each administration shall provide the other administration with a schedule of approximate delivery times to each city or other location to which scheduled service is available, based upon the time schedules of the international flights used to carry scheduled items.

3. For each scheduled service contract, the administration of origin shall provide the administration of destination with the following information at least ten days prior to commencing service pursuant to such contract:

(i) The identification number of the customer contract, which number shall be indicated on each item sent;

(ii) the name and address of the designated addressee;

(iii) the days of the week designated by the customer as scheduled dispatch days;

(iv) the time of day delivery is requested; and

(v) the airline and flight number to be used.

Article 4 On-Demand Service

1. Each administration may offer on-demand service which shall be available to customers on a non-scheduled basis.

2. Each administration shall provide the other administration with a list of the cities and other locations to which on-demand service is available.

3. Each administration shall provide the other administration with a schedule of approximate delivery times to each city or other location to which on-demand service is available, based upon the time schedules of the international flights used to carry on-demand items.

4. Each administration shall inform the other administration of all identification marks or numbers which it uses for each on-demand item.

5. The administration of origin is not required to provide the administration of destination with notice prior to sending an on-demand item.

Article 5 Charges to be Collected From the Sender

Each administration shall fix the charges to be collected from senders for sending items in the service.

Article 6 Charges and Fees to be Collected From the Addressee

Each administration shall be authorized to collect from the addressee the customs duty and other applicable non-postal fees, if any, payable on each item it delivers and a charge for the collection of such fees.

Article 7 Conditions of Acceptance

Provided that the contents do not come within the prohibitions listed in Article 8, each item to be admitted into the International Express Mail service shall:

(a) be packed in a manner adapted to the nature of the contents and the conditions of transport;

(b) bear the name and address of the addressee and of the sender; and

(c) satisfy the conditions of size and weight fixed by Article 9.

Article 8 Prohibitions

1. The provisions of the Convention governing prohibitions shall be applicable to the insertion of articles in International Express Mail items.

2. Each administration shall communicate to the other the necessary information concerning customs or other regulations, as well as the probitions or restrictions governing entry of postal items in its service.

Article 9 Limits of Size and Weight

1. An item of International Express Mail:

(a) shall not exceed one meter for any one dimension nor 2 meters for the sum of the length and the greatest circumference measured in a direction other than that of the length; and,

(b) shall not exceed 20 kilograms in weight.

2. The administrations may agree by exchange of correspondence to change the size limits established in Section 1.

Article 10 Treatment of Items Wrongly Accepted

1. When an item containing an article prohibited under Article 8 has been wrongly admitted to the post, the prohibited article shall be dealt with according to the legislation of the country of the administration establishing its presence.

2. When the weight or the dimensions of an item exceed the limits established under Article 9, it shall be returned to the administration of origin if the regulations of the administration of destination do not permit delivery.

3. When a wrongly admitted item is neither delivered to the addressee nor returned to origin, the administration of origin shall be informed how the item has been dealt with and of the restriction or prohibition which required such treatment.

Article 11 General Rules for Delivery and Customs Clearance

1. Each administration shall, in accordance with its regulations for the type of service used, make every effort to effect delivery of each item of International Express Mail by the fastest means available.

2. Each administration shall make every effort to expedite the customs clearance of International Express Mail items.

Article 12 Undeliverable Items

1. After every reasonable effort to deliver an item has proven unsuccessful, the item shall be held at the disposal of the addressee for the period of retention provided by the regulations of the administration of destination.

2. An item refused by the addressee shall be returned immediately to the administration of origin.

3. Each undeliverable item shall be returned to the administration of origin through the International Express Mail service.

4. Neither administration shall charge the other for the return of undeliverable items.

Article 13 Items Arriving Out of Course and to be Redirected

1. Each item arriving out of course shall be redirected to its proper destination by the most direct route used by the administration which has received the item.

2. Neither administration shall charge the other for the redirection of items arriving out of course.

Article 14 Inquiries

1. Each administration shall answer in the shortest possible time, not to exceed one month, inquiries relating to any International Express Mail item posted by the other administration.

2. Inquiries shall be accepted only within a period of four months from the date after that on which the item was posted.

3. This article does not authorize routine requests for confirmation of delivery.

Article 15 Allocation of Surface Costs for Traffic Imbalances

1. At the end of each calendar year, the administration which has received a larger quantity of International Express Mail than it has sent during that year shall have the right to collect from the other administration, as compensation, an imbalance charge for the surface handling and delivery costs it has incurred for each additional item received.

2. Each administration shall establish an imbalance charge per item which shall correspond to the costs of services.

3. Modifications of the imbalance charge may be made as follows:

(a) Each administration may increase its imbalance charge when such an increase is necessary due to an increase in the costs of services.

(b) To be applicable, any such modification of the imbalance charge must:

(i) be communicated to the other administration at least three months in advance;

(ii) remain in force for at least one year.

4. No imbalance charge shall be collected if the difference in the number of items exchanged is less than one hundred.

Article 16 Internal Air Conveyance Dues

Each administration which provides air conveyance of items within its country shall be entitled to reimbursement of internal air conveyance dues at rates established in the provisions of the Convention which govern internal air conveyance dues.

Article 17 Onward Air Conveyance

1. The administrations may agree, by exchange of correspondence, to provide onward air conveyance services under the terms of this article.

2. Each administration shall, upon agreement under Section 1 of this article, provide onward air conveyance service to or from any country with which it exchanges International Express Mail items, for items addressed to or originating in the other administration and shall provide approximate onward air conveyance times.

3. For each item forwarded pursuant to this article, the administration providing onward air conveyance services shall be authorized to collect from the other adminsitration the onward air conveyance rates applicable to airmail under the Convention.

Article 18 No Additional Rates, Charges, or Fees

The administrations may collect only the rates, charges, and fees established under this Agreement.

Article 19 Application of the Convention

The Convention or its Detailed Regulations shall be applicable, where appropriate, by analogy, in all cases not expressly governed by this Agreement or its Detailed Regulations.

Article 20 Temporary Suspension of Service

1. Should extraordinary circumstances justify it, either administration may suspend temporarily its operation of the service.

2. Notice of such suspension shall be given immediately to the other administration.

Article 21 Detailed Regulations

1. Details of implementation of this Agreement shall be governed by its Detailed Regulations.

2. The provisions of the Detailed Regulations may be amended, not inconsistently with this Agreement, by mutual consent by means of correspondence between officials of each administration who have been authorized to make such amendments.

Article 22 Arbitration

Any dispute which arises between the administrations concerning the interpretation or application of this Agreement which cannot be resolved by the administrations to their mutual satisfaction, shall be settled by arbitration, following the arbitration procedures of the Universal Postal Union at the time that the dispute is submitted by an administration for arbitration. The arbitrators shall be chosen from the administrations which provide a service analogous to International Express Mail service.

Article 23 Additional Rules and Regulations

Each administration is authorized to adopt implementing rules and regulations for its internal operation of the service not inconsistent with this Agreement or its Detailed Regulations.

Article 24 Entry into Force and Duration

1. This Agreement shall enter into force on the date mutually agreed upon by the administrations, after it is signed by the authorized representatives of both administrations.[1]

2. This Agreement shall expire three months after either administration notifies the other in writing of termination.

[1] July 1, 1981.

76-318 O - 88 - 4 VOL. 33 (Pt. 3)

Done in duplicate and signed at Washington, D.C. on the 29th day of June, 1981, and at Pretoria, South Africa on the 25th day of May, 1981.

FOR THE UNITED STATES POSTAL SERVICE:

[1]

ASSISTANT POSTMASTER GENERAL
INTERNATIONAL POSTAL AFFAIRS

FOR THE POSTAL ADMINISTRATION OF THE REPUBLIC OF SOUTH AFRICA:

(W.T.B. RIDGARD)
DEPUTY POSTMASTER GENERAL
STAFF AND POSTS

[1] H. Edgar S. Stock.

DETAILED REGULATIONS OF THE INTERNATIONAL

EXPRESS MAIL AGREEMENT

BETWEEN

THE UNITED STATES POSTAL SERVICE

AND

THE DEPARTMENT OF POSTS AND TELECOMMUNICATIONS

OF THE REPUBLIC OF SOUTH AFRICA

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The undersigned, by virtue of the authority vested in them, have drawn up the following Detailed Regulations for implementation of the International Express Mail Agreement between the United States Postal Service and the Department of Posts and Telecommunications of the Republic of South Africa.

Article 101 Information to be Supplied by the Administrations

1. Each administration shall notify the other administration of:

(a) the necessary information concerning customs or other regulations, as well as the prohibitions or restrictions governing the entry of International Express Mail items in the territory of its country and other areas for which it has International Express Mail responsibility;

(b) the provisions of its laws or regulations applicable to the conveyance of International Express Mail items;

(c) the rates and dues established under the Agreement; and,

(d) the forms, labels and other documentation which it requires in the service.

2. Any change of the information mentioned in Section 1 shall be communicated in writing immediately to the other administration.

Article 102 Address of the Sender and of the Addressee

To be admitted for mailing, each item of International Express Mail shall bear, in roman letters and arabic figures on the item itself or on a label firmly attached to it, the names and complete addresses of the sender and of the addressee.

Article 103 Items Containing Samples of Merchandise

1. Each item containing samples of merchandise shall be accompanied by a customs declaration on Universal Postal Union Form C2/CP3 or a similar form. The customs declaration shall be securely attached to each such item.

2. The contents of each such item shall be shown in detail on the customs declaration.

3. Although the administrations assume no responsibility for the accuracy of customs declarations, they shall inform senders of the correct way to complete these declarations.

4. The aggregate value of all items a sender may mail to the same person in the United States in one day shall not exceed $250.

Article 104 Packing Requirements

1. Each item shall be packed and closed in a manner befitting the weight, the shape, and the nature of the contents as well as the mode and duration of conveyance.

2. Each item shall be packed and closed so as not to present any danger if it contains articles of a kind likely to injure officials called upon to handle it, or to soil or damage other mail or postal equipment.

3. Each item shall have, on its packing or wrapping, sufficient space for service instructions and for affixing labels.

4. Each item which requires special packing shall be made up in accordance with the packing provisions in the Detailed Regulations of the Convention.

Article 105 General Makeup of Mails

1. International Express Mail dispatches shall be made up in closed mails, and shall be accompanied by the air mail delivery bill and manifest forms required by these regulations.

2. The items in each dispatch shall be enclosed in blue and orange International Express Mail bags.

3. Items containing merchandise or other dutiable articles shall be placed in separate bags from non-dutiable items, and shall be dispatched separately accompanied by a separate manifest.

4. Each bag shall bear a label, showing the blue and orange chevron which has been adopted as the International Express Mail identification symbol. Each bag label shall clearly indicate:

(a) the exchange office of destination; and

(b) whether the bag contains merchandise or other dutiable items.

Article 106 Manifests

1. An International Express Mail manifest, on a form acceptable to each administration, shall accompany each dispatch.

2. Each item sent through the scheduled service shall be listed separately on the manifest. If no items are sent under a scheduled service contract, the contract number and the fact that no items were sent shall be entered on the manifest.

3. The total number of on-demand items in a dispatch shall be entered collectively as a single manifest entry.

4. The manifest shall clearly indicate that the dispatch contains International Express Mail items.

Article 107 Air Mail Delivery Bills

1. An air mail delivery bill, on Universal Postal Union Form AV 7, shall accompany each dispatch.

2. The air mail delivery bill shall be marked so as to indicate clearly that the dispatch contains International Express Mail.

Article 108 Exchange Offices

1. The exchange of dispatches of International Express Mail shall be carried out by the designated exchange offices of each administration.

2. Each administration shall designate its International Express Mail exchange offices to be used in the service and inform the other administration of the location of each such exchange office.

3. Each administration shall give the other administration advance notice of redesignation of, or addition to its exchange offices.

Article 109 Check of International Express Mail

1. Upon receipt of an International Express Mail dispatch, the administration of destination shall check the dispatch to confirm its conformity with the air mail delivery bill.

2. The contents of each dispatch shall be checked as soon as possible, at an office designated by the administration of destination, to confirm their conformity with the manifest.

Article 110 Notification of Irregularities

1. Any evidence of missing or damaged bags or items shall be reported to the administration of origin by telex or telegraph and confirmed in writing.

2. All other actions taken in connection with any irregularity shall be governed by the regulations of the administration of destination.

Article 111 Redirection of Items Arriving Out of Course

The redirecting administration shall notify the administration of origin, by telex, telegraph, or telephone, of the details concerning the arrival and redirection of each item or bag arriving out of course.

Article 112 Return of Items to Origin

Each administration which returns an item for any reason whatsoever shall give, either written by hand or by means of a stamped impression or label on the item and on the manifest which accompanies it, the reason for non-delivery.

Article 113 Accounting, Settlement of Accounts

1. The procedures for accounting and for the settlement of accounts for internal air conveyance shall be governed by the provisions covering accounting for air mail in the Detailed Regulations of the Convention.

2. The procedures for accounting and settlement of accounts for allocation of surface costs for traffic imbalances shall be as follows:

(a) The settlement shall take place at the end of each calendar year.

(b) Each administration shall prepare quarterly a statement of items received in a mutually acceptable form which indicates the number of items received in

each dispatch based upon the particulars of the International Express Mail manifests. These forms shall be forwarded to the administration of origin within two months from the end of the quarter.

(c) After verifying the statement of items received, the origin administration shall advise the destination administration by correspondence of its acceptance. If the verification reveals any discrepancies, a corrected statement shall be returned to the destination administration duly amended and accepted. If the destination administration disputes the amendments, it shall confirm the actual data by sending photocopies of relevant International Express Mail manifests and notices of irregularities to the administration of origin. If the destination administration has received no notice of amendment within two months from the date of forwarding the quarterly statement of items received, the account shall be regarded as fully accepted.

(d) After each administration has accepted the statement of items received prepared by the other, the creditor administration shall prepare annually a detailed account and statement of charges in a mutually acceptable form which indicates the total number of items received and dispatched, the imbalance, the imbalance charge per item, and the total amount due.

(e) Accounts shall be closed within 6 months after the last day of the settlement period.

Article 114 Definitions

The definitions set forth in Article 2 of the Agreement shall be applicable to these Detailed Regulations.

Article 115 Period of Retention of Documents

1. Documents of the service shall be kept for a minimum period of eighteen months from the day following the date to which they refer.

2. A document concerning a dispute or an inquiry shall be kept until the matter has been settled. If the inquiring administration, duly informed of the result of an inquiry, allows six months to elapse from the date of the communication without raising any objections, the matter shall be regarded as settled.

Article 116 Alterations or Amendments

These Detailed Regulations may be altered or amended, not inconsistently with the Agreement, by mutual consent of the administrations by means of correspondence between officials of each administration who have been authorized to make such amendments.

Article 117 Entry into Force and Duration

1. These Detailed Regulations shall come into force on the same date as the International Express Mail Agreement to which they refer.

2. These Detailed Regulations, and any amendments thereto pursuant to Article 116, shall have the same duration as the International Express Mail Agreement to which they refer.

Done in duplicate and signed at Washington, D.C. on the 29th day of June, 1981, and at Pretoria, South Africa on the 25th day of May, 1981.

FOR THE UNITED STATES POSTAL SERVICE:

ASSISTANT POSTMASTER GENERAL
INTERNATIONAL POSTAL AFFAIRS

FOR THE POSTAL ADMINISTRATION OF THE REPUBLIC OF SOUTH AFRICA:

(W.T.B. RIDGARD)
DEPUTY POSTMASTER GENERAL
STAFF AND POSTS

EGYPT

Economic Assistance: Commodity Imports Loan

Agreement signed at Cairo June 28, 1981;
Entered into force June 28, 1981.

A.I.D. Loan No. 263-K-055

LOAN AGREEMENT

BETWEEN

UNITED STATES OF AMERICA

AND THE

ARAB REPUBLIC OF EGYPT

FOR

COMMODITY IMPORTS

DATED: June 28, 1981

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A.I.D. Loan No. 263-K-055

COMMODITY IMPORT LOAN AGREEMENT

Dated: June 28, 1981

Between

the Arab Republic of Egypt ("Borrower")

and

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

Article 1: The Loan

To finance the foreign exchange costs of certain commodities and commodity-related services ("Eligible Items") necessary to assist the Borrower in meeting a serious foreign exchange shortage, achieving development objectives and improving the standard of living, the United States; pursuant to the Foreign Assistance Act of 1961, as amended,[1] agrees to lend to the Borrower under the terms of this Agreement, not to exceed Seventy Million United States dollars ($70,000,000) ("Loan"). The aggregate amount of disbursements under this Loan is referred to as "Principal".

Article 2: Loan Terms

Section 2.1. Interest. The Borrower will pay to A.I.D. interest which will accrue at the rate of two percent (2%) per annum

[1] 75 Stat. 424; 22 U.S.C. § 2151.

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 5.5.) 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 2.2. Repayment. The Borrower will repay to A.I.D. the Prinicipal 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 Prinicipal 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 2.1. A.I.D. will provide the Borrower with an amortization schedule in accordance with this Section after the final disbursement under the Loan.

Section 2.3. Application, Currency, and Place of Payment. All payments of interest and Principal hereunder will be made in United States 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 2.4. Prepayment. Upon payment of all interest and any refunds then due, the Borrower may prepay, without penalty, all of 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 2.5. Renegotiation of Terms.

(a) The Borrower 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 the country of the Borrower, which enable the Borrower 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 8.3., 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 8.3., 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 Borrower's Minister of Economy in the Arab Republic of Egypt.

Section 2.6. Termination on Full Payment. Upon payment in full of the Principal and any accrued interest, this Agreement and all obligations of the Borrower and A.I.D. under it will cease.

Article 3: Conditions Precedent to Disbursement

Section 3.1. Conditions Precedent. Prior to the first disbursement under this Loan, or to the issuance by A.I.D. of documentation pursuant to which disbursement will be made, the Borrower 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 the Minister of Justice of the Arab Republic of Egypt that this Agreement has been duly authorized and/or ratified by, and executed on behalf of the Borrower, and that it constitutes a valid and legally binding obligation of the Borrower in accordance with all of its terms;

(b) A statement representing and warranting that the named person or persons have the authority to act as the representative or representatives of the Borrower pursuant to Section 8.2., together with a specimen signature of each person certified as to its authenticity.

Section 3.2. Notification. When A.I.D. has determined that the conditions precedent specified in Section 3.1 have been met, it will promptly notify the Borrower.

Section 3.3. Terminal Date for Conditions Precedent. If all the conditions specified in Section 3.1 have not been met within one hundred twenty (120) days from the date of this Agreement, or such later date as A.I.D. may specify in writing, A.I.D., at its option, may terminate this Agreement by written notice to Borrower.

Article 4: Procurement, Eligibility, and Utilization of Commodities

Section 4.1. A.I.D. Regulation 1. This Loan and the procurement and utilization of commodities and commodity-related services financed under it are subject to the terms and conditions of A.I.D. Regulation 1 as from time to time amended and in effect, except as A.I.D. may otherwise specify in writing. If any provision of A.I.D. Regulation 1 is inconsistent with a provision of this Agreement, the provision of this Agreement shall govern.

Section 4.2. Eligible Items.

(a) The commodities eligible for financing under this Loan shall be those mutually agreed upon by the Parties and specified in the Implementation Letters and Commodity Procurement Instructions issued to Borrower in accordance with Section 8.1 of this Agreement.

Commodity-related services as defined in A.I.D. Regulation 1 are eligible for financing under this Loan. Eligible Items will be subject to the requirements and Special Provisions of Parts I, II, and III of the A.I.D. Commodity Eligibility Listing which will be transmitted with the first Implementation Letter. Other commodities or services shall become eligible for financing only with the written agreement of A.I.D. A.I.D. may decline to finance any specific commodity or commodity-related service when in its judgment such financing would be inconsistent with the purposes of the Loan or of the Foreign Assistance Act of 1961, as amended.

(b) A.I.D. reserves the right in exceptional situations to delete certain commodity categories or items within commodity categories described in Schedule B codes on the Commodity Eligibility Listing. Such right will be exercised at a point in time no later than commodity prevalidation by A.I.D. (Form 11 approval) or, if no commodity prevalidation is required, no later than the date on which an irrevocable Letter of Credit is confirmed by a U.S. bank in favor of the supplier.

(c) If no prevalidation is required and payment is not by Letter of Credit, A.I.D. will exercise this right no later than the date on which it expends funds made available to the Borrower under this Agreement for the financing of the commodity. In any event, however, the Borrower will be notified through the A.I.D. Mission in its country of any decision by A.I.D. to exercise its right pursuant

to a determination that financing the commodity would adversely affect A.I.D. or foreign-policy objectives of the United States or could jeopardize the safety or health of people in Egypt.

Section 4.3. Procurement Source. All Eligible Items shall have their source and origin in the United States (Code 000 of the A.I.D. Geographic Code Book) except as A.I.D. may specify in Implementation Letters or Commodity Procurement Instructions, or as it may otherwise agree in writing.

Section 4.4. Eligibility Date. No commodities or commodity-related services may be financed under the Loan if they were procured pursuant to orders or contracts firmly placed or entered into prior to the date of this Agreement, except as A.I.D. may otherwise agree in writing.

Section 4.5. Procurement for Public Sector.

(a) With respect to procurement under this Loan by or for Borrower, its departments and instrumentalities, the provisions of Section 201.22 of A.I.D. Regulation 1 regarding formal competitive bid procedures will apply unless A.I.D. otherwise agrees in writing.

(b) Borrower will undertake to assure that public sector and end-users under this Loan establish adequate logistic management facilities and that adequate funds are available to pay banking charges, customs, duties and other commodity-related charges in connection with commodities imported by public-sector end-users.

Section 4.6. Special Procurement Rules.

(a) None of the proceeds of this Loan may be used to finance the purchase, sale, long-term lease, exchange or guaranty of a sale of motor vehicles unless such motor vehicles are manufactured in the United States, except as A.I.D. may otherwise agree in writing.

(b) 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.

Section 4.7. Financing Physical Facilities. Not more that $1,000,000 from the proceeds of this Loan shall be used for the purchase of commodities or commodity-related services for use in the construction, expansion, equipping, or alteration of a physical facility or related physical facilities without prior A.I.D. approval, additional to the approvals required by A.I.D. Regulation 1, except as A.I.D. may otherwise agree in writing. "Related physical facilities" shall mean those facilities which, taking into account such factors as functional interdependence, geographic proximity, and ownership, constitute a single enterprise in the judgment of A.I.D.

Section 4.8. Utilization of Commodities.

(a) Borrower will assure that commodities financed under this Loan will be effectively used for the purposes for which the assistance is made available. To this end, the Borrower will use its best efforts to assure that the following procedures are followed:

(i) accurate arrival and clearance records are maintained by customs authorities; commodity imports are promptly processed through customs at ports of entry; such commodities are removed from customs and/or bonded warehouses within ninety (90) calendar days from the date the commodities are unloaded from the vessel at port of entry, unless the importer is hindered by force majeure or A.I.D. otherwise agrees in writing;

(ii) proper surveillance and supervision are maintained to reduce breakage and pilferage in ports resulting from careless or deliberately improper cargo handling practices, as specified in detail in Implementation Letters, and

(iii) the commodities are consumed or used by the importer not later than one (1) year from the date the commodities are removed from customs, unless a longer period can be justified to the satisfaction of A.I.D. by reason of force majeure or special market conditions or other circumstances.

(b) Borrower will assure that commodities financed under this Loan will not be reexported in the same or substantially the same form, unless specifically authorized by A.I.D.

(c) Borrower shall use its best efforts to prevent the use of commodities financed under this Agreement to promote or assist any project or activity associated with or financed by any country not included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such projected use, except with the prior written consent of A.I.D.

Section 4.9. Minimum Size of Transactions. No foreign exchange allocation or letter of credit issued pursuant to this Agreement shall be in an amount less than Ten Thousand Dollars ($10,000), except as A.I.D. may otherwise agree in writing. The minimum size of transactions restriction is not applicable for end-use importers.

Article 5: Disbursement

Section 5.1. Letters of Commitment to Banks. After satisfaction of the conditions precedent, Borrower may obtain disbursements of funds under this Loan by submitting Financing Requests to A.I.D. for the issuance of letters of commitment for specified amounts to one or more banking institutions in the United States designated by Borrower and satisfactory to A.I.D. Such letters will commit A.I.D. to reimburse the bank or banks on behalf of the Borrower for payments made by them to suppliers or contractors, under letters of credit or otherwise, pursuant to such documentation requirements as A.I.D. may prescribe. Banking charges incurred in connection with letters of commitment and disbursements shall be for the account of Borrower and may be financed by this Loan.

Section 5.2. Other Forms of Disbursement Authorizations. Disbursements of the Loan may also be made through such other means as the Parties may agree to in writing.

Section 5.3. Terminal Date for Requests for Disbursement Authorization. No letter of commitment or other disbursement

authorization will be issued in response to a request received after thirty-six (36) months from the date the Borrower satisfies the Conditions Precedent in Section 3.1, except as A.I.D. may otherwise agree in writing.

Section 5.4. Terminal Date for Disbursement. No disbursement of Loan funds shall be made against documentation received by A.I.D. or any bank described in Section 5.1 after thirty-six (36) months from the date the Borrower satisfies the Condition Precedent in Section 3.1, except as A.I.D. may otherwise agree in writing.

Section 5.5. Date of Disbursement. Disbursements by A.I.D. will be deemed to occur on the date on which A.I.D. makes a disbursement to the Borrower or its designee, or to a bank, contractor or supplier pursuant to a Letter of Commitment or other form of disbursement authorization.

Section 5.6. Documentation Requirements. A.I.D. Regulation 1 specifies in detail the documents required to substantiate disbursements under this Agreement by Letter of Commitment or other method of financing. The document number shown on the Letter of Commitment or other disbursing authorization document shall be the number reflected on all disbursement documents submitted to A.I.D. In addition to the above, Borrower shall maintain records adequate to establish that commodities financed hereunder have been utilized in accordance with Section 4.8 of this Agreement. Additional documents

may also be required by A.I.D. with respect to specific commodities, as may be set forth in detail in Implementation Letters.

Article 6: General Covenants

Section 6.1. Taxation. This Agreement and the Loan 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 Arab Republic of Egypt.

Section 6.2. Reports and Records. In addition to the requirements in A.I.D. Regulation 1, the Borrower will:

(a) furnish A.I.D. such reports and information relating to the goods and services financed by this Loan and the performance of Borrower's obligations under 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, such books and records relating to this Loan as may be prescribed in Implementation Letters. Such books and records shall be made available to A.I.D. or any of its authorized representatives for such period and at such times as A.I.D. may reasonably require, and shall be maintained for three years after the date of last disbursement by A.I.D. under this Loan; and

(c) permit A.I.D. or any of its authorized representatives at all reasonable times during the three-year period to inspect the

commodities financed under this Loan at any point, including the point of use.

Section 6.3. Completeness of Information. The Borrower confirms:

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

Section 6.4. Other Payment. Borrower affirms that no payments have been or will be received by any official of the Borrower in connection with the procurement of goods or services financed under the Loan, except fees, taxes, or similar payments legally established in the country of the Borrower.

Section 6.5. Periodic Discusssions. Periodically, but no less than annually, the Borrower and A.I.D. will meet to discuss the status of the economy, associated economic issues and the relationship of the A.I.D. program to those concerns.

Section 6.6. Private Sector. The Borrower covenants to continue its support of appropriate participation by the private

sector in transactions financed under this Agreement and will take all necessary steps to make available to the private sector no less than Thirty Five Million Dollars ($ 35,000,000) of the proceeds of the FY 1981 Grant and Loan for Commodity Imports.

Article 7: Termination; Remedies

Section 7.1. Cancellation by Borrower. The Borrower 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 7.2. Events of Default; Acceleration. It will be an "Event of Default" if Borrower 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 provision 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 Borrower 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 Borrower 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 7.3. 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 that the purposes of the Loan will be attained or that the Borrower 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 Borrower 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 Borrower or any of its agencies and the Government of the United States or any of its agencies;

Then, in addition to remedies provided in A.I.D. Regulation 1, 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 Borrower;

(2) decline to issue additional commitment documents or to make disbursements other than under existing ones; and

(3) at A.I.D.'s expense, direct that title to goods financed under the Loan be vested in A.I.D. if the goods are in a deliverable state and have not been offloaded in ports of entry of Borrower's country. Any disbursement made under the Loan with respect to such transferred goods will be deducted from Principal.

Section 7.4. Cancellation by A.I.D. If, within sixty (60) days from the date of any suspension of disbursements pursuant to Section 7.3, the cause or causes thereof have not been corrected, A.I.D. may cancel any part of the Loan that is not then disbursed or irrevocably committed to third parties.

Section 7.5. 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.

Section 7.6. Refunds.

(a) In addition to any refund otherwise required by A.I.D. pursuant to A.I.D. Regulation 1, if A.I.D. determines that any disbursement is not supported by valid documentation in accordance with this Agreement, or is in violation of United States law, or is not made or used in accordance with the terms of this Agreement, A.I.D. may require the Borrower to refund the amount of such

disbursement in U.S. dollars to A.I.D. within thirty (30) days after receipt of request therefor. Refunds paid by the Borrower to A.I.D. resulting from violations of the terms of this Agreement shall be considered as a reduction in the amount of A.I.D.'s obligation under the Agreement and shall be available for reuse under the Agreement if authorized by A.I.D. in writing. Any refund which reduces the amount of A.I.D. assistance hereunder will be applied to the installments of Principal in the inverse order of their maturity.

(b) The right to require such a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three (3) years from the date of the last disbursement under this Agreement.

Section 7.7. Nonwaiver of Remedies. No delay in exercising or omitting to exercise any right, power, or remedy accruing to A.I.D. under this Agreement will be construed as a waiver of such rights, powers, or remedies.

Article 8: Miscellaneous

Section 8.1. Implementation Letters. From time to time, for the information and guidance of both parties, A.I.D. will issue Implementation Letters and Commodity Procurement Instructions describing the procedures applicable to the implementation of this Agreement. Except as permitted by particular provisions of this

Agreement, Implementation Letters will not be used to amend or modify the text of this Agreement.

Section 8.2. Representatives. For all purposes relevant to this Agreement, the Borrower will be represented by the individual holding or acting in the offices of the Minister of State for Economy and/or the Senior Undersecretary of State for Economic Cooperation with U.S.A., and A.I.D. will be represented by the individual holding or acting in the office of Director, USAID, Cairo, Egypt, each of whom, by written notice, may designate additional representatives. The name of the representatives of the Borrower, 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 8.3. 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 Borrower:

Mail Address: Ministry of Economy
8 Adly Street
Cairo, Egypt

Cable Address: 8 Adly Street
Cairo, Egypt

To A.I.D.:

Mail Address: United States Agency for International Development
c/o U.S. Embassy
Cairo, Egypt

Cable Address: U.S. Embassy
Cairo, Egypt

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

Section 8.4. Information and Marking. The Borrower will give appropriate publicity to the Loan as a program to which the United States has contributed, and mark goods financed by A.I.D., as described in Implementation Letters.

IN WITNESS WHEREOF, the Borrower 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.

ARAB REPUBLIC OF EGYPT	UNITED STATES OF AMERICA
BY :	BY :
NAME : Dr. Abdel Razzak Abdel Meguid	NAME : Alfred L. Atherton, Jr.
TITLE: Deputy Prime Minister for Economic & Financial Affairs & Minister of Planning, Finance and Economy	Title: American Ambassador

Implementing Organization

In acknowledgment of the foregoing Agreement, a representative of the implementing organization has subscribed his name:

MINISTRY OF ECONOMY

BY : _____

NAME : Dr. Soliman Nour El Din

TITLE: Minister of State for Economy

EGYPT

Economic Assistance: Commodity Imports Grant

Agreement signed at Cairo June 28, 1981;
Entered into force June 28, 1981.

A.I.D. Grant No. 263-K-603

GRANT AGREEMENT

BETWEEN

UNITED STATES OF AMERICA

AND THE

ARAB REPUBLIC OF EGYPT

FOR

COMMODITY IMPORTS

Dated: June 28, 1981

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A.I.D. Grant No. 263-K-603

COMMODITY IMPORT GRANT AGREEMENT

Dated: June 28, 1981

Between

the Arab Republic of Egypt ("Grantee")

and

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

Article 1: The Grant

To finance the foreign exchange costs of certain commodities and commodity-related services ("Eligible Items") necessary to assist the Grantee in meeting a serious foreign exchange shortage, achieving development objectives and improving the standard of living, the United States, pursuant to the Foreign Assistance Act of 1961, as amended,[1] agrees to grant to the Grantee under the terms of this Agreement, not to exceed Two Hundred Thirty Million United States dollars ($230,000,000) ("Grant").

Article 2: Conditions Precedent to Disbursement

Section 2.1. Conditions Precedent to Initial Disbursement. Prior to the first disbursement under the Grant, or to the issuance by A.I.D. of

[1] 75 Stat. 424; 22 U.S.C. § 2151.

documentation pursuant to which disbursement will be made, the Grantee 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 the Minister of Justice of the Arab Republic of Egypt 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 representing and warranting that the named person or persons have the authority to act as the representative or representatives of the Grantee pursuant to Section 7.2, together with a specimen signature of each person certified as to its authenticity.

Section 2.2. Additional Condition Precedent to Initial Disbursement for Trade Financing Facility. Prior to any disbursement or the issuance by A.I.D. of any letter of commitment or other authorization for disbursement under the Grant for the Trade Financing Facility, the Grantee and A.I.D. shall mutually agree in writing upon procedures governing the use of the Facility.

Section 2.3. Notification. When A.I.D. has determined that the conditions precedent specified in Sections 2.1 and 2.2 have been met, it will promptly notify the Grantee.

Section 2.4. Terminal Date for Conditions Precedent. If all the conditions specified in Section 2.1 have not been met within one hundred twenty (120) days from the date of this Agreement, or such later date as A.I.D. may specify in writing, A.I.D., at its option, may terminate this Agreement by written notice to Grantee.

Article 3: Procurement, Eligibility, and Utilization of Commodities

Section 3.1. A.I.D. Regulation 1. This Grant and the procurement and utilization of commodities and commodity-related services financed under it are subject to the terms and conditions of A.I.D. Regulation 1 as from time to time amended and in effect, except as A.I.D. may otherwise specify in writing. If any provision of A.I.D. Regulation 1 is inconsistent with a provision of this Agreement, the provision of this Agreement shall govern.

Section 3.2 Eligible Items.

(a) The commodities eligible for financing under this Grant shall be those mutually agreed upon by the Parties and specified in the Implementation Letters and Commodity Procurement Instructions issued to Grantee in accordance with Section 7.1 of this Agreement. Commodity-related services as defined in A.I.D. Regulation 1 are eligible for financing under this Grant. Eligible Items will be subject to the requirements and Special Provisions of Parts I, II, and III of the A.I.D. Commodity Eligibility Listing which will be transmitted with the first

Implementation Letter. Other commodities or services shall become eligible for financing only with the written agreement of A.I.D. A.I.D. may decline to finance any specific commodity or commodity-related service when in its judgment such financing would be inconsistent with the purposes of the Grant or of the Foreign Assistance Act of 1961, as amended.

(b) A.I.D. reserves the right in exceptional situations to delete commodity categories or items within commodity categories described in Schedule B codes on the Commodity Eligibility Listing. Such right will be exercised at a point in time no later than commodity prevalidation by A.I.D. (Form 11 approval) or, if no commodity prevalidation is required, no later than the date on which an irrevocable Letter of Credit is confirmed by a U.S. bank in favor of the supplier.

(c) If no prevalidation is required and payment is not by Letter of Credit, A.I.D. will exercise this right no later than the date on which it expends funds made available to the Grantee under this Agreement for the financing of the commodity. In any event, however, the Grantee will be notified through the A.I.D. Mission in the Arab Republic of Egypt of any decision by A.I.D. to exercise its right pursuant to a determination that financing the commodity would adversely affect A.I.D. or foreign-policy objectives of the United States or could jeopardize the safety or health of people in Egypt.

Section 3.3. Procurement Source. All Eligible Items shall have their source and origin in the United States of America (Code 000 of the A.I.D. Geographic Code Book) except as A.I.D. may specify in Implementation Letters or Commodity Procurement Instructions, or as it may otherwise agree in writing.

Section 3.4. Eligibility Date. No commodities or commodity-related services may be financed under this Grant if they were procured pursuant to orders or to contracts firmly placed or entered into prior to the date of this Agreement, except as A.I.D. may otherwise agree in writing.

Section 3.5. Procurement for Public Sector.

(a) With respect to procurement under this Grant by or for Grantee, its departments and instrumentalities, the provisions of Section 201.22 of A.I.D. Regulation 1 regarding formal competitive bid procedures will apply unless A.I.D. otherwise agrees in writing.

(b) Grantee will undertake to assure that public sector end-users under this Grant establish adequate logistic management facilities and that adequate funds are available to pay banking charges, customs, duties and other commodity-related charges in connection with commodities imported by public sector end-users.

Section 3.6. Special Procurement Rules

(a) None of the proceeds of this Grant may be used to finance the purchase, sale, long-term lease, exchange or guaranty of a sale of motor vehicles unless such motor vehicles are manufactured in the United States, except as A.I.D. may otherwise agree in writing.

(b) 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.

(c) All international air shipments financed under this Grant will be on carriers holding U.S. certification to perform the service, unless shipment would, in the judgment of the Grantee, be delayed an unreasonable time awaiting a U.S.-flag carrier either at point of origin or transshipment. The Grantee must certify to the facts in the vouchers or other documents retained as part of the Grant records.

Section 3.7. Financing Physical Facilities. Not more than $1,000,000 from the proceeds of this Grant shall be used for the purchase of commodities or commodity-related services for use in the construction, expansion, equipping, or alteration of any physical facility or related physical facilities without prior A.I.D. approval, additional to the approvals required by A.I.D. Regulation 1, except as A.I.D. may otherwise agree in writing. "Related physical facilities" shall mean those facilities which, taking into account such factors as functional interdependence, geographic proximity, and ownership, constitute a single enterprise in the judgment of A.I.D.

Section 3.8. Utilization of Commodities.

(a) Grantee will assure that commodities financed under this Grant will be effectively used for the purposes for which the assistance is made available. To this end, the Grantee will use its best efforts to assure that the following procedures are followed:

(i) accurate arrival and clearance records are maintained by customs authorities; commodity imports are promptly processed through customs at ports of entry; such commodities are removed from customs and/or bonded warehouses within ninety (90) calendar days from the date the commodities are unloaded from the vessel at the port of entry, unless the importer is hindered by force majeure or A.I.D. otherwise agrees in writing;

(ii) proper surveillance and supervision are maintained to reduce breakage and pilferage in ports resulting from careless or deliberately improper cargo handling practices, as specified in detail in Implementation Letters; and

(iii) the commodities are consumed or used by the importer not later than one (1) year from the date the commodities are removed from customs, unless a longer period can be justified to the satisfaction of A.I.D. by reason of force majeure or special market conditions or other circumstances.

(b) Grantee will assure that commodities financed under this Grant will not be reexported in the same or substantially the same form, unless specifically authorized by A.I.D.

(c) Grantee shall use its best efforts to prevent the use of commodities financed under this Agreement to promote or assist any project or activity associated with or financed by any country not

included in Code 935 of the A.I.D. Geographic Code Book as in effect at the time of such projected use, except with the prior written consent of A.I.D.

Section 3.9. Minimum Size of Transactions. No foreign exchange allocation or letter of credit issued pursuant to this Agreement shall be in an amount less than Ten Thousand Dollars ($10,000), except as A.I.D. may otherwise agree in writing. The minimum size of transaction restriction is not applicable for end-use importers.

Article 4: Disbursement

Section 4.1. Letters of Commitment to Banks. After satisfaction of the conditions precedent, the Grantee may obtain disbursements of funds under this Grant by submitting Financing Requests to A.I.D. for the issuance of letters of commitment for specified amounts to one or more banking institutions in the United States designated by Grantee and satisfactory to A.I.D. Such letters will commit A.I.D. to reimburse the bank or banks on behalf of the Grantee for payments made by the banks to suppliers or contractors, under letters of credit or otherwise, pursuant to such documentation requirements as A.I.D. may prescribe. Banking charges incurred in connection with letters of commitment and disbursements shall be for the account of Grantee and may be financed by this Grant.

Section 4.2. Other Forms of Disbursement Authorizations. Disbursements of the Grant may also be made through such other means as the parties may agree to in writing.

Section 4.3. Terminal Date for Requests for Disbursement Authorizations. No letter of commitment or other disbursement authorization will be issued in response to a request received after thirty-six (36) months from the date the Grantee satisfies the Conditions Precedent in Section 2.1, except as A.I.D. may otherwise agree in writing.

Section 4.4. Terminal Date for Disbursement. No disbursement of Grant funds shall be made against documentation received by A.I.D. or any bank described in Section 4.1. after thirty-six (36) months from the date the Grantee satisfies the Conditions Precedent in Section 2.1, except as A.I.D. may otherwise agree in writing.

Section 4.5. Date of Disbursement. Disbursements by A.I.D. shall be deemed to occur on the date on which A.I.D. makes a disbursement to the Grantee, or its designee, or to a bank, contractor or supplier pursuant to a Letter of Commitment or other form of disbursement authorization.

Section 4.6. Documentation Requirements. A.I.D. Regulation 1 specifies in detail the documents required to substantiate disbursements under this Agreement by Letter of Commitment or other method of financing. The document number shown on the Letter of Commitment or other disbursing authorization document shall be the number reflected on all disbursement documents submitted to A.I.D. In addition to the above,

the Grantee shall maintain records adequate to establish that commodities financed hereunder have been utilized in accordance with Section 3.8 of this Agreement. Additional documents may also be required by A.I.D. with respect to specific commodities, as may be set forth in detail in Implementation Letters.

Article 5: General Covenants

Section 5.1. Taxation. This Agreement and the Grant will be free from any taxation or fees imposed under laws in effect in the Arab Republic of Egypt.

Section 5.2. Reports and Records. In addition to the requirements in A.I.D. Regulation 1, the Grantee will:

(a) furnish A.I.D. such reports and information relating to the goods and services financed by this Grant and the performance of Grantee's obligations under 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, such books and records relating to this Grant as may be prescribed in Implementation Letters. Such books and records shall be made available to A.I.D. or any of its authorized representatives for such periods and at such times as A.I.D. may reasonably require, and shall be maintained for three years after the date of last disbursement by A.I.D. under this Grant; and

(c) permit A.I.D. or any of its authorized representatives at all reasonable times during the three-year period to inspect the commodities financed under this Grant at any point, including the point of use.

Section 5.3. Completeness of Information. The Grantee confirms:

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

Section 5.4. Other Payments. Grantee affirms that no payments 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 5.5. Periodic Discussions. Periodically, but no less than annually, the Grantee and A.I.D. will meet to discuss the status of the economy, associated economic issues, and, until resolved, implementation of the Fiscal Year 1980 fertilizer importation program to determine if special arrangements shall be instituted to resolve issues related to that program.

Section 5.6. Private Sector. The Grantee covenants to continue its support of appropriate participation by the private sector in transactions financed under this Agreement and will take all necessary steps to make available to the private sector no less than Thirty Five Million Dollars ($35,000,000) of the proceeds of the FY 1981 Grant and Loan for Commodity Imports.

Sectin 5.7. Use of Local Currency.

(a) Grantee will establish a Special Account in the Central Bank of Egypt and deposit therein currency of the Government of the Arab Republic of Egypt in amounts equal to proceeds accruing to the Grantee or any authorized agency thereof as a result of the sale or importation of the Eligible Items. Funds in the Special Account may be used for such purposes as are mutually agreed upon by A.I.D. and the Grantee and as otherwise specified in this Agreement, provided that such portion of the funds in the Special Account shall be made available to meet the requirements of the United States.

(b) Deposits to the Special Account shall become due and payable quarterly upon advice from A.I.D. as to disbursements made under the Agreement. Grantee shall make such deposits at the highest rate of exchange prevailing and declared for foreign exchange currency by the competent authorities of the Arab Republic of Egypt.

(c) Any unencumbered balances of funds which remain in the Special Account upon termination of assistance hereunder shall be disbursed for such purposes as may, subject to applicable law, be agreed to between Grantee and A.I.D.

Section 5.8. Set Asides. Unless A.I.D. otherwise agrees in writing, any set asides or extraordinary allocations of funds shall be mutually agreed to by the Parties and set forth in Implementation Letters. The Parties may also agree in such Implementation Letters as to which set asides will not result in the accrual of proceeds to the Grantee and hence not require the deposit of counterpart funds into the Special Account.

Article 6: Termination; Remedies

Section 6.1. Termination. This Agreement may be terminated by mutual agreement of the Parties at any time. Either Party may terminate this Agreement by giving the other Party thirty (30) days written notice.

Section 6.2. Suspension. If at any time:

(a) Grantee shall fail to comply with any provisions of this Agreement; or

(b) Any representation or warranty made by or on behalf of Grantee with respect to obtaining this Grant or made or required to be made under this Agreement is incorrect in any material respect; or

(c) An event occurs that A.I.D. determines to be an extraordinary situation that makes it improbable either that the purposes of the Grant will be attained or that the Grantee will be able to perform its obligations under this Agreement; or

(d) Any disbursement by A.I.D. would be in violation of the legislation governing A.I.D.; or

(e) A default shall have occured under any other agreement between Grantee or any of its agencies and the Government of the United States or any of its agencies; Then, in addition to remedies provided in A.I.D. Regulation 1, A.I.D. may:

(1) suspend or cancel outstanding commitment documents to the extent that they have not been utilized through irrevocable commitments to third parties or otherwise, or to the extent that A.I.D. has not made direct reimbursement to the Grantee thereunder, giving prompt notice to Grantee thereafter;

(2) decline to issue additional commitment documents or to make disbursements other than under existing ones; and

(3) at A.I.D.'s expense, direct that title to goods financed under the Grant be vested in A.I.D. if the goods are in a deliverable state and have not been offloaded in ports of entry of the Arab Republic of Egypt.

Section 6.3. Cancellation by A.I.D. If, within sixty (60) days from the date of any suspension of disbursements pursuant to Section 6.2, the cause or causes thereof have not been corrected, A.I.D. may cancel any part of the Grant that is not then disbursed or irrevocably commited to third parties.

Section 6.4. Refunds.

(a) In addition to any refund otherwise required by A.I.D. pursuant to A.I.D. Regulation 1, if A.I.D. determines that any disbursement is not supported by valid documentation in accordance with this Agreement, or is in violation of United States law, or is not made or used in accordance with the terms of this Agreement, A.I.D. may require the Grantee to refund the amount of such disbursement in U.S. dollars to A.I.D. within thirty (30) days after receipt of request therefor. Refunds paid by the Grantee to A.I.D. resulting from violations of the terms of this Agreement shall be considered as a reduction in the amount of A.I.D's obligation under the Agreement and shall be available for reuse under the Agreement if authorized by A.I.D. in writing.

(b) The right to require such a refund of a disbursement will continue, notwithstanding any other provision of this Agreement, for three (3) years from the date of the last disbursement under this Agreement.

Section 6.5. Nonwaiver of Remedies. No delay in exercising or omitting to exercise, any right, power, or remedy accruing to A.I.D. under this Agreement will be construed as a waiver of such rights, powers or remedies.

Article 7: Miscellaneous

Section 7.1. Implementation Letters. From time to time, for the information and guidance of both parties, A.I.D. will issue Implementation Letters and Commodity Procurement Instructions describing the procedures applicable to the implementation of the Agreement. Except as permitted by particular provisions of this Agreement, Implementation Letters will not be used to amend or modify the text of this Agreement.

Section 7.2. Representatives. For all purposes relevant to this Agreement, the Grantee will be represented by the individual holding or acting in the offices of the Minister of State for Economy and/or the Senior Undersecretary of State for Economic Cooperation with U.S.A., and A.I.D. will be represented by the individual holding or acting in the office of Director, USAID, Cairo, Egypt, each of whom, by written notice, may designate additional representatives. The names of the representatives of the Grantee, with specimen signatures, will be provided to A.I.D., which may accept as duly authorized any instrument signed by such representatives in implementation of this Agreement, until receipt of written notice of revocation of their authority.

Section 7.3. 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 Grantee:

Mail Address: Ministry of Economy
8 Adly Street
Cairo, Egypt

Cable Address: 8 Adly Street
Cairo, Egypt

To A.I.D.:

Mail Address: United States Agency for International Development
c/o U.S. Embassy
Cairo, Egypt

Cable Address: U.S. Embassy
Cairo, Egypt

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

Section 7.4. Information and Marking. The Grantee will give appropriate publicity to the Grant as a program to which the United States has contributed, and mark goods financed by A.I.D., as described in Implementation Letters.

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.

ARAB REPUBLIC OF EGYPT

BY : _____

NAME : Dr. Abdel Razzak Abdel Meguid

TITLE: Deputy Prime Minister for Economic & Financial Affairs & Minister of Planning, Finance and Economy

UNITED STATES OF AMERICA

BY : _____

NAME : Alfred L. Atherton, Jr.

TITLE: American Ambassador

Implementing Organization

In acknowledgment of the forgoing Agreement, a representative of the implementing organization has subscribed his name:

MINISTRY OF ECONOMY

BY : _____

NAME : Dr. Soliman Nour El Din

TITLE: Minister of State for Economy

ARGENTINA

Postal: Express Mail Service

Agreement, with detailed regulations, signed at Buenos Aires and Washington September 4 and 26, 1980;
Entered into force January 1, 1981.

INTERNATIONAL EXPRESS

MAIL AGREEMENT

BETWEEN

THE UNITED STATES POSTAL SERVICE

AND

THE POSTAL ADMINISTRATION OF ARGENTINA

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Preamble

The undersigned, by virtue of the authority vested in them, have concluded the following Agreement.

Article 1. Purpose of the Agreement

This Agreement shall govern the exchange of International Express Mail between the United States and Argentina, including any areas for which the postal administrations of these countries exercise International Express Mail responsibilities.

Article 2. Definitions

As used herein the following terms shall have the indicated meanings:

1. Administration - an abbreviated form used to refer to one of the postal administrations of the countries signatory to this Agreement;

2. Articles and Sections - Articles and Sections of this Agreement, except when the context indicates an article which is or can be inserted into an item;

3. Convention - the Universal Postal Convention [1] adopted by the Congress of the Universal Postal Union from time to time and adopted by the countries signatory to this Agreement;

4. Detailed Regulations of the Convention - the Detailed Regulations of the Universal Postal Convention enacted by the Congress of the Universal Postal Union from time to time and adopted by the countries signatory to this Agreement;

[1] TIAS 5881, 7150, 8231, 9972; 16 UST 1291; 22 UST 1056; 27 UST 345; 32 UST 4587.

5. International Express Mail Service - the service established by this Agreement, the domestic counterparts of which are Express Mail Service in the United States and Door to Door Service in Argentina;

6. Scheduled Service - an International Express Mail service option which allows a sender to enter into a contractual arrangement to mail items on a designated schedule to designated addressees;

7. On-Demand Service - an International Express Mail service option which allows a sender to mail an item on a non-contractual basis and without any requirements for scheduling or prior designation of addressee;

8. References to the regulations of either administration or to the internal legislation of either country are to the general regulations or legislation governing the matter in question which are applicable regardless of the country of origin.

Article 3. Scheduled Service

1. Each administration shall offer scheduled service on a contractual basis to customers who agree to use the service on a designated schedule to send items to designated addressees.

2. Each administration shall provide the other administration with a schedule of approximate delivery times to each city or other location to which scheduled service is available, based upon the time schedules of the international flights used to carry scheduled items.

3. For each scheduled service contract, the administration of origin shall provide the administration of destination with the following information at least ten days prior to commencing service pursuant to such contract:

(i) The identification number of the customer contract, which number shall be indicated on each item sent;

(ii) the name and address of the designated addressee;

(iii) the days of the week designated by the customer as scheduled dispatch days;

(iv) the time of day delivery is requested; and

(v) the airline and flight number to be used.

Article 4. On-Demand Service

1. Each administration shall offer on-demand service which shall be available to customers on a non-scheduled basis.

2. Each administration shall provide the other administration with a list of the cities and other locations to which on-demand service is available.

3. Each administration shall provide the other administration with a schedule of approximate delivery times to each city or other location to which on-demand service is available, based upon the time schedules of the international flights used to carry on-demand items.

4. Each administration shall inform the other administration of all identification marks or numbers which it uses for each on-demand item.

5. The administration of origin is not required to provide the administration of destination with notice prior to sending an on-demand item.

Article 5. Charges to be Collected from the Sender

Each administration shall fix the charges to be collected from senders for sending items in the service.

Article 6. Charges and Fees to be Collected from the Addressee

Each administration shall be authorized to collect from the addressee the customs duty and other applicable non-postal fees, if any, payable on each item it delivers and a charge for the collection of such fees.

Article 7. Conditions of Acceptance

Provided that the contents do not come within the prohibitions listed in Article 8, each item to be admitted into the International Express Mail service shall:

(a) be packed in a manner adapted to the nature of the contents and the conditions of transport;

(b) bear the name and address of the addressee and of the sender; and

(c) satisfy the conditions of weight and size fixed by Article 9.

Article 8. Prohibitions

1. The provisions of the Convention governing prohibitions shall be applicable to the insertion of articles in International Express Mail items.

2. Each administration shall communicate to the other the necessary information concerning customs or other regulations, as well as the prohibitions or restrictions governing entry of postal items in its service.

Article 9. Limits of Size and Weight

1. An item of International Express Mail:

a) shall not exceed 900 millimeters for any one dimension nor 2 meters for the sum of the length and the greatest circumference measured in a direction other than that of the length; and

b) shall not exceed 15 kilograms in weight.

2. The administrations may agree by exchange of correspondence to change the size and weight limits established in section 1; however, the maximum weight limit shall in no event be increased in excess of 20 kilograms.

Article 10. Treatment of Items Wrongly Accepted

1. When an item containing an article prohibited under Article 8 has been wrongly admitted to the post, the prohibited article shall be dealt with according to the legislation of the country of the administration establishing its presence.

2. When the weight or the dimensions of an item exceed the limits established under Article 9, it shall be returned to the administration of origin if the regulations of the administration of destination do not permit delivery.

3. When a wrongly admitted item is neither delivered to the addressee nor returned to origin, the administration of origin shall be informed how the item has been dealt with and of the restriction or prohibition which required such treatment.

Article 11. General Rules for Delivery and Customs Clearance

1. Each administration shall, in accordance with its regulations for the type of service used, make every effort to effect delivery of each item of International Express Mail by the fastest means available.

2. Each administration shall make every effort to expedite the customs clearance of International Express Mail items.

Article 12. Undeliverable Items

1. After every reasonable effort to deliver an item has proven unsuccessful, the item shall be held at the disposal of the addressee for the period of retention provided by the regulations of the administration of destination.

2. An item refused by the addressee shall be returned immediately to the administration of origin.

3. Each undeliverable item shall be returned to the administration of origin through the International Express Mail service.

4. Neither administration shall charge the other for the return of undeliverable items.

Article 13. Items Arriving Out of Course and to be Redirected

1. Each item arriving out of course shall be redirected to its proper destination by the most direct route used by the administration which has received the item.

2. Neither administration shall charge the other for the redirection of items arriving out of course.

Article 14. Inquiries

1. Each administration shall answer in the shortest possible time, not to exceed one month, inquiries relating to any International Express Mail item posted by the other administration.

2. Inquiries shall be accepted only within a period of four months from the day after that on which the item was posted.

3. This article does not authorize routine requests for confirmation of delivery.

Article 15. Allocation of Surface Costs for Traffic Imbalances

1. At the end of each calendar year, the administration which has received a larger quantity of International Express Mail than it has sent during that year shall

have the right to collect from the other administration, as compensation, an imbalance charge for the surface handling and delivery costs it has incurred for each additional item received.

2. Each administration shall establish an imbalance charge per item which shall correspond to the costs of services.

3. Modifications of the imbalance charge may be made as follows:

a. Each administration may increase its imbalance charge when such an increase is necessary due to an increase in the costs of services.

b. To be applicable, any such modification of the imbalance charge must:

(i) be communicated to the other administration at least three months in advance;

(ii) remain in force for at least one year.

4. No imbalance charge shall be collected if the difference in the number of items exchanged is less than one thousand.

Article 16. Internal Air Conveyance Dues

Each administration which provides for air conveyance of items within its country shall be entitled to reimbursement of internal air conveyance dues at rates established in the provisions of the Convention which govern internal air conveyance dues.

Article 17. Onward Air Conveyance

1. The administrations may agree, by exchange of correspondence, to provide onward air conveyance services under the terms of this article.

2. Each administration shall, upon agreement under section 1 of this article, provide onward air conveyance service to or from any country with which it exchanges International Express Mail items, for items addressed to or originating in the other administration and shall provide approximate onward air conveyance times.

3. For each item forwarded pursuant to this article, the administration providing onward air conveyance services shall be authorized to collect from the other administration the onward air conveyance rates applicable to airmail under the Convention.

Article 18. No Additional Rates, Charges, or Fees

The administrations may collect only the rates, charges, and fees established under this Agreement.

Article 19. Application of the Convention

The Convention or its Detailed Regulations shall be applicable, where appropriate, by analogy, in all cases not expressly governed by this Agreement or its Detailed Regulations.

Article 20. Temporary Suspension of Service

1. Should extraordinary circumstances justify it, either administration may suspend temporarily its operation of the service.

2. Notice of such suspension shall be given immediately to the other administration.

Article 21. Detailed Regulations

1. Details of implementation of this Agreement shall be governed by its Detailed Regulations.

2. The provisions of the Detailed Regulations may be amended, not inconsistently with this Agreement, by mutual consent by means of correspondence between officials of each administration who have been authorized to make such amendments.

Article 22. Arbitration

Any dispute which arises between the administrations concerning the interpretation or application of this Agreement which cannot be resolved by the administrations to their mutual satisfaction, shall be settled by arbitration, following the arbitration procedures of the Universal Postal Union at the time that the dispute is submitted by an administration for arbitration. The arbitrator shall be chosen from the administrations which provide a service analogous to International Express Mail service.

Article 23. Additional Rules and Regulations

Each administration is authorized to adopt implementing rules and regulations for its internal operation of the service not inconsistent with this Agreement or its Detailed Regulations.

Article 24. Entry into Force and Duration of the Agreement

1. This Agreement shall enter into force on the date mutually agreed upon by the administrations, after it is signed by the authorized representatives of both administrations.[1]

2. This Agreement shall expire twelve months after either administration notifies the other in writing of termination.

[1] Jan. 1, 1981.

Done in duplicate in the English and Spanish languages, both versions being equally authentic, and signed at Washington, D.C., on the 26th day of September, 1980, and at Buenos Aires on the 4th day of September, 1980.

FOR THE UNITED STATES OF AMERICA

[1]

Postmaster General

FOR ARGENTINA:

[2]

Cnel. (R) Ing. Mil. SILVIO CARLOS YORIO
ADMINISTRADOR GENERAL
General Administrator of Encotele

[1] W. F. Bolger.
[2] Silvio Yorio.

DETAILED REGULATIONS OF THE INTERNATIONAL

EXPRESS MAIL AGREEMENT

BETWEEN

THE UNITED STATES POSTAL SERVICE

AND

THE POSTAL ADMINISTRATION OF ARGENTINA

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The undersigned, by virtue of the authority vested in them, have drawn up the following Detailed Regulations for implementation of the International Express Mail Agreement between the United States Postal Service and the Postal Administration of Argentina.

Article 101. Information to be Supplied by the Administrations

1. Each administration shall notify the other administration of:

(a) the necessary information concerning customs or other regulations, as well as the prohibitions or restrictions governing the entry of International Express Mail items in the territory of its country and other areas for which it has International Express Mail responsibility;

(b) the provisions of its laws or regulations applicable to the conveyance of International Express Mail items;

(c) the rates and dues established under the Agreement; and,

(d) the forms, labels, and other documentation which it requires in the service.

2. Any changes of the information mentioned in Section 1 shall be communicated in writing immediately to the other administration.

Article 102. Address of the Sender and of the Addressee

To be admitted for mailing, each item of International Express Mail shall bear, in roman letters and arabic figures on the item

itself or on a label firmly attached to it, the names and complete addresses of the sender and of the addressee.

Article 103. Packing Requirements

1. Each item shall be packed and closed in a manner befitting the weight, the shape, and the nature of the contents as well as the mode and duration of conveyance.

2. Each item shall be packed and closed so as not to present any danger if it contains articles of a kind likely to injure officials called upon to handled it or to soil or damage other mail or postal equipment.

3. Each item shall have, on its packing or wrapping, sufficient space for service instructions and for affixing labels.

4. Each item which requires special packing shall be made up in accordance with the packing provisions in the Detailed Regulations of the Convention.

Article 104. General Make-Up of Mails

1. International Express Mail dispatches shall be made up in closed mails, and shall be accompanied by the air mail delivery bill and manifest forms required by these regulations.

2. The items in each dispatch shall be enclosed in blue and orange International Express Mail bags.

3. Each bag shall bear a label, showing the blue and orange chevron which has been adopted as the International Express Mail identification symbol. Each bag label shall clearly indicate the exchange office of destination.

Article 105. Manifests

1. An International Express Mail manifest, on a form acceptable to each administration, shall accompany each dispatch.

2. Each item sent through the scheduled service shall be listed separately on the manifest. If no items are sent under a scheduled service contract, the contract number and the fact that no items were sent shall be entered on the manifest.

3. The total number of on-demand items in a dispatch shall be entered collectively as a single manifest entry.

4. The manifest shall clearly indicate that the dispatch contains International Express Mail items.

Article 106. Air Mail Delivery Bills

1. An air mail delivery bill, on Universal Postal Union form AV 7, shall accompany each dispatch.

2. The air mail delivery bill shall be marked so as to indicate clearly that the diepatch contains International Express Mail.

Article 107. Exchange Offices

1. The exchange of dispatches of International Express Mail shall be carried out by the designated exchange offices of each administration.

2. Each administration shall designate its International Express Mail exchange offices to be used in the service and inform the other administration of the location of each such exchange office.

3. Each administration shall give the other administration advance notice of redesignation of or addition to its exchange offices.

Article 108. Check of International Express Mail

1. Upon receipt of an International Express Mail dispatch, the administration of destination shall check the dispatch to confirm its conformity with the air mail delivery bill.

2. The contents of each dispatch shall be checked as soon as possible, at an office designated by the administration of destination, to confirm their conformity with the manifest.

Article 109. Notification of Irregularities

1. Any evidence of missing or damaged bags or items shall be reported to the administration of origin by telex and confirmed in writing.

2. All other actions taken in connection with any irregularity shall be governed by the regulations of the administration of destination.

Article 110. Redirection of Items or Bags Arriving Out of Course

The redirecting administration shall notify the administration of origin, by telex or telephone, of the details concerning the arrival and redirection of each item or bag arriving out of course.

Article 111. Return of Items to Origin

Each administration which returns an item for any reason whatsoever shall give, either written by hand or by means of a stamped impression or a label on the item and on the manifest which accompanies its, the reason for non-delivery.

Article 112. Accounting, Settlement of Accounts

1. The procedures for accounting and for the settlement of accounts for internal air conveyance shall be governed by the provisions covering accounting for air mail in the Detailed Regulations of the Convention.

2. The procedures for accounting and settlement of accounts for allocation of surface costs for traffic imbalances shall be as follows:

(a) The settlement shall take place at the end of each calendar year.

(b) Each administration shall prepare quarterly a statement of items received on a mutually acceptable form which indicates the number of items received in each dispatch based upon the particulars of the International Express Mail manifests. These forms shall be forwarded to the Administration of origin within two months from the end of the quarter.

(c) After verifying the statement of items received, the origin administration shall advise the destination administration by correspondence of its acceptance. If the verification reveals any descrepancies, a corrected statement shall be returned to the destination administration duly amended and accepted. If the destination administration disputes the amendments, it shall confirm the actual data by sending photocopies of relevant International Express Mail

manifests and notices of irregularities to the administration of origin. If the destination administration has received no notice of amendment within two months from the date of forwarding the quarterly statement of items received, the account shall be regarded as fully accepted.

(d) After each administration has accepted the statement of items received prepared by the other, the creditor administration shall prepare annually a detailed account and statement of charges on a mutually acceptable form which indicates the total number of items received and dispatched, the imbalance, the imbalance charge per item, and the total amount due.

(e) Accounts shall be closed within 6 months after the last day of the settlement period.

Article 113. Definitions

The definitions set forth in Article 2 of the Agreement shall be applicable to these Detailed Regulations.

Article 114. Period of Retention of Documents

1. Documents of the service shall be kept for a minimum period of eighteen months from the day following the date to which they refer.

2. A document concerning a dispute or an inquiry shall be kept until the matter has been settled. If the inquiring administration, duly informed of the result of an inquiry, allows six months to elapse from the date of the communication without raising any objections, the matter shall be regarded as settled.

Article 115. Alterations or Amendments

These Detailed Regulations may be altered or amended, not inconsistently with the Agreement, by mutual consent of the administrations by means of correspondence between officials of each administration who have been authorized to make such amendments.

Article 116. Entry Into Force and Duration

1. These Detailed Regulations shall come into force on the same date as the International Express Mail Agreement to which they refer.

2. These Detailed Regulations, and any amendments hereto pursuant to Article 115, shall have the same duration as the International Express Mail Agreement to which they refer.

Done in duplicate in the English and Spanish languages, both versions being equally authentic, and signed at Washington, D.C., on the 26th day of September, 1980, and at Buenos Aires on the 4th day of September, 1980.

FOR THE UNITED STATES OF AMERICA:

Postmaster General

FOR ARGENTINA:

General Administrator of Encotele

ACUERDO DEL SERVICIO EXPRESO INTERNACIONAL ENTRE LA ADMINISTRACION POSTAL DE ARGENTINA Y EL SERVICIO POSTAL DE LOS ESTADOS UNIDOS DE AMERICA

PREÁMBULO

Los que abajo suscriben, en virtud de la autoridad que les fuera concedida, han concluido el siguiente Acuerdo.

ARTÍCULO 1. Propósito del Acuerdo

Este Acuerdo regirá el intercambio de correspondencia Expreso Internacional entre la Argentina y los Estados Unidos, incluyendo cualquier área para las cuales las Administraciones postales de estos países ejercen responsabilidades del Expreso Internacional.

ARTÍCULO 2. Definiciones

Los términos que se detallan a continuación, tendrán el significado que en cada caso se indica, a saber:

1. Administración—forma abreviada usada para referirse a una de las Administraciones postales de los países signatarios de este Acuerdo;
2. Artículos y secciones—artículos y secciones de este Acuerdo, excepto cuando el contexto indica un artículo que es o puede ser insertado dentro de un envío;
3. Convención—Convenio Postal Universal;
4. Reglamentaciones Detalladas de la Convención—Reglamento de Ejecución del Convenio Postal Universal.
5. Servicio Expreso Internacional—el servicio establecido por este Acuerdo, cuyo similar local es Servicio Expreso Internacional en los Estados Unidos y Puerta a Puerta en la Argentina;
6. Servicio Programado—una opción del Servicio Expreso Internacional que permite a un remitente llegar a un acuerdo contractual para imponer envíos según un horario designado y para destinatarios designados;
7. Servicio a Pedido—una opción del Servicio Expreso Internacional que permite a un remitente remitir un envío sobre una base no contractual y sin ningún requerimiento de programación o previa designación de destinatario;
8. Las referencias a las reglamentaciones de cada administración o la legislación interna de cada país, serán las reglamentaciones generales o legislación que gobierne el asunto en cuestión, que son aplicables independientemente del país de origen.

ARTÍCULO 3. Servicio Programado

1. Cada Administración ofrecerá servicios programados por con-

trato a usuarios que acepten utilizar el servicio en horario designado, para remitir envíos a destinatarios designados.

2. Cada Administración proveerá a la otra de un programa de horarios aproximados de entrega en cada ciudad o lugar donde se preste el servicio regular, basado sobre el horario de vuelos internacionales utilizados para transportar los despachos.

3. Para cada contrato del servicio programado, la administración de origen proveerá a la administración de destino la siguiente información por lo menos diez días antes de comenzar el servicio acorde con tal contrato:

(i) el número de identificación del contrato del usuario, el que figurará en cada envío remitido;

(ii) el nombre y dirección del destinatario designado;

(iii) los días de la semana designados por el usuario como días de expedición;

(iv) la hora del día de entrega; y

(v) empresa aérea y vuelo a utilizar.

ARTÍCULO 4. Servicio a Pedido

1. Cada administración ofrecerá el servicio "A Pedido" a los usuarios sobre una base no regular.

2. Cada administración proveerá a la otra una lista de ciudades y otros destinos donde pueda prestarse el servicio mencionado.

3. Cada administración proveerá a la otra con un horario aproximado de entregas en cada ciudad o lugar donde se pueda prestar el servicio "A Pedido", basado en los horarios de vuelos internacionales usados para transportar envíos en este tipo de servicio.

4. Cada administración informará a la otra sobre todas las marcas de identificación o números que utilice en cada envío "A Pedido".

5. La administración de origen no está obligada a suministrar a la administración de destino aviso previo a la remisión de un envío "A Pedido".

ARTÍCULO 5. Tasas a cobrar al remitente

Cada administración fijará las tasas a percibir del remitente por la remisión de envíos en este servicio.

ARTÍCULO 6. Tasas y aranceles a cobrar al destinatario

Cada administración estará autorizada a cobrar al destinatario los derechos aduaneros y otros gravámenes no postales correspondientes, si los hubiera, pagadero por cada envío que entrega y una tasa por el cobro de tales aranceles.

ARTÍCULO 7. Condiciones de aceptación

Siempre que el contenido no incurra en las prohibiciones detalladas

en el artículo 8, cada envío a ser admitido en el Servicio Expreso Internacional deberá:

(a) estar embalado de una manera adaptable a la naturaleza del contenido y las condiciones del transporte;
(b) llevar el nombre y dirección del remitente y del destinatario, y
(c) reunir las condiciones de peso y medidas fijadas por el artículo 9.

ARTÍCULO 8. Prohibiciones

1. Las cláusulas de la Convención sobre prohibiciones se aplicarán a la inserción de artículos en envíos del Servicio Expreso Internacional.
2. Cada administración comunicará a la otra la necesaria información sobre aduana u otras reglamentaciones, como así las prohibiciones o restricciones que gobiernen el ingreso de envíos postales en su servicio.

ARTÍCULO 9. Limites de mediadas y peso

1. Un envío del Servicio Expreso Internacional:

a) no deberá exceder 900 milimetros en ninguna dimensión ni 2 metros por la suma del largo y la mayor circunferencia medida en una dirección distinta del largo; y
b) no deberá exceder 15 kilos de peso.

2. Las administraciones podrán acordar mediante intercambio de correspondencia el cambio de los límites de medidas y peso establecidos en la sección 1; sin embargo, el límite máximo de peso en ningún caso podrá exceder los 20 kilos.

ARTÍCULO 10. Tratamiento de artículos aceptados erróneamente

1. Cuando un envío conteniendo un artículo prohibido según el artículo 8 fuera admitido en el correo en forma errónea, el artículo prohibido será tratado de acuerdo con la legislación del país de la Administración que establece su presencia.
2. Cuando el peso o las dimensiones de un envío excedan los límites establecidos en el artículo 9, será devuelto a la administración de origen si las reglamentaciones del país de destino no permiten su entrega.
3. Cuando un artículo aceptado erróneamente no sea entregado al destinatario ni devuelto a origen, deberá informarse a la administración de origen qué trato se dio al objeto y cuales fueron las restricciones o prohibiciones que exigieron dicho trato.

ARTÍCULO 11. Reglas generales sobre entrega y salida de aduana

1. Cada administración deberá, de acuerdo con su reglamentación para el tipo de servicio utilizado, hacer el máximo esfuerzo para efectuar la entrega de los artículos del Servicio Expreso Internacional por el medio disponible más veloz.
2. Cada administración hará máximo esfuerzo para obtener la salida de aduana de los envíos del Servicio Expreso Internacional.

ARTÍCULO 12. Artículos no entregables

1. Luego de que un esfuerzo razonable para entregar un envío haya resultado infructuoso, el artículo deberá quedar a disposición del destinatario durante un período de retención que establece las reglamentaciones de la administración de destino.

2. Un envío rehusado por el destinatario deberá ser devuelto inmediatamente a la administración de origen.

3. Cada envío no entregable deberá ser devuelto a la administración de origen por el Servicio Expreso Internacional.

4. Ninguna administración cobrará a la otra por la devolución de envíos no entregables.

ARTÍCULO 13. Envíos recibidos mal encaminados a ser reexpedidos

1. Cada envío que llegue mal encaminado deberá ser reencaminado a su correcto destino por la ruta más directa usada por la administración que ha recibido el envío.

2. Ninguna administración cobrará a la otra por la reexpedición de envíos que lleguen mal encaminados.

ARTÍCULO 14. Reclamaciones

1. Cada administración deberá responder en el más breve tiempo posible, sin exceder un mes, las reclamaciones relacionadas con cualquier envío impuesto por la otra administración.

2. Las reclamaciones se aceptarán solamente dentro de un período de cuatro meses desde el día siguiente al de imposición del envío.

3. Este artículo no autoriza pedidos de rutina de confirmación de entrega.

ARTÍCULO 15. Asignación de costos de superficie por desnivel de tráfico

1. Al fin de cada año calendario, la administración que haya recibido mayor cantidad de envíos del Servicio Expreso Internacional que la que expidiera durante ese año, tendrá el derecho de percibir de la otra administración, como compensación, una tasa diferencial por los costos de transporte de superficie y entrega en que haya incurrido por cada envío adicional recibido.

2. Cada administración establecerá una tasa diferencial por envío la cual corresponderá a los costos de servicios.

3. Las modificaciones a la tasa diferencial podrán hacerse como sigue:

a. Cada administración podrá incrementar su tasa diferencial (por desnivel) cuando tal aumento resulte necesario debido a un aumento en el costo de los servicios.

b. Para ser aplicable, cualquier modificación de la tasa diferencial debe:

(i) ser comunicado a la otra administración con una anticipación de por lo menos 3 meses.

(ii) estar en vigencia durante por lo menos 1 año.

4. No se percibirá tasa diferencial si la diferencia en el número de envíos intercambiados es de menos de mil.

ARTÍCULO 16. Derechos de transporte aéreo interno

Cada administración que brinde transporte aéreo de envíos dentro del territorio nacional tendrá derecho al reembolso de las tasas aéreas internas en el rubro establecido en las provisiones de la Convención que gobierna las tarifas de transporte aéreo interno.

ARTÍCULO 17. Reencaminamiento aéreo

1. Las administraciones podrán acordar, mediante intercambio de correspondencia, brindar un servicio de reexpedición aérea según los términos de este artículo.

2. Cada administración ofrecerá, merced acuerdo según la sección 1 de este artículo, servicio de reexpedición aérea hacia o desde cualquier país con el cual intercambie envíos del Servicio Expreso Internacional, de envíos consignados a u originados en la otra administración y ofrecerá horarios aproximados de reexpedición aérea.

3. Por cada envío expedido según este artículo, la administración que brinde servicio de reexpedición aérea estará autorizada a percibir de la otra administración las tasas de reexpedición aérea que se aplica a este medio según la Convención.

ARTÍCULO 18. No hay tasas o aranceles adicionales

Las administraciones podrán cobrar solamente las tasas y aranceles que se establecen en este Acuerdo.

ARTÍCULO 19. Aplicación de la Convención

La Convención y sus Reglamentaciones Detalladas se aplicarán, donde correspondan, por analogía, en todos los casos no expresamente regulados por este Acuerdo o sus Reglamentaciones Detalladas.

ARTÍCULO 20. Suspensión temporaria de servicios

1. Si circunstancias extraordinarias lo justificaran, cualquier administración podrá suspender temporariamente la operación del servicio.

2. Inmediatamente se dará aviso de tal suspensión a la otra administración.

ARTÍCULO 21. Reglamentaciones Detalladas

1. Los detalles de la implementación de este Acuerdo se regirán por sus Reglamentaciones Detalladas.

2. Las cláusulas de las Reglamentaciones Detalladas podrán quedar sujetas a enmienda, sin ir en contradicción con este Acuerdo, por mutuo consentimiento por carta entre autoridades de cada administración, que hayan sido autorizadas a efectuar tales enmiendas.

ARTÍCULO 22. Arbitraje

Cualquier disputa que se presente entre las administraciones en cuanto a la interpretación o aplicación de este Acuerdo que no pueda ser resuelta por las administraciones a su mutua satisfacción, quedarán resueltas por arbitraje, siguiendo los procedimientos arbitrales de la Unión Postal Universal al momento que la disputa se presente por la administración para su arbitraje. Los árbitros serán elegidos de entre las administraciones que proveen un servicio análogo al Servicio Expreso Internacional.

ARTÍCULO 23. Reglas y Reglamentaciones adicionales

Cada administración está autorizada a implementar reglas y reglamentaciones para sus operaciones internas del servicio que no esté en contraposición con este Acuerdo y sus Reglamentaciones Detalladas.

ARTÍCULO 24. Entrada en vigencia y duración del Acuerdo

1. Este Acuerdo entrará en vigencia a partir de la fecha mutuamente acordada por las administraciones, luego de que sea suscripto por los representantes autorizados de ambas administraciones.
2. Este Acuerdo expirará doce meses después de que alguna de las administraciones notifique a la otra por escrito de su determinación.

Confeccionado por duplicado en los idiomas inglés y castellano, siendo ambas versiones igualmente auténticas, y suscriptas en Buenos Aires, a los cuatro días del mes de septiembre de 1980, y en Washington D.C., el día 26th de September de 1980.

POR LA REPUBLICA ARGENTINA:

SILVIO YORIO

Administrador General de Encotel

POR LOS ESTADOS UNIDOS DE AMERICA:

W F BOLGER

Director General de Correos

REGLAMENTO DE EJECUCION DEL ACUERDO DEL SERVICIO EXPRESO INTERNACIONAL ENTRE LA ADMINISTRACION POSTAL DE ARGENTINA y EL SERVICIO POSTAL DE LOS ESTADOS UNIDOS DE AMERICA

Los que suscriben, en virtud de la autoridad que se les otorgara, han proyectado las siguientes Reglamentaciones Detalladas para la implementación del Servicio Expreso Internacional en acuerdo entre la Administración Postal de la Argentina y el Servicio Postal de los Estados Unidos.

ARTÍCULO 101. Información a dar por las administraciones

1. Cada administración notificará a la otra administracion de:

(a) La necesaria información concerniente a aduanas u otras reglamentaciones, como así las prohibiciones o restricciones que gobiernan el ingreso de envíos del Servicio Expreso Internacional en el territorio de su país y otras áreas en las cuales el servicio se ejecuta bajo su responsabilidad;

(b) las cláusulas de sus leyes o reglamentaciones aplicables al transporte de envíos de este servicio;

(c) las tasas y derechos establecidos bajo el acuerdo; y

(d) los formularios, carátulas y otra documentación que se requiere en este servicio.

2. Cualquier cambio en la información mencionada en la sección 1 deberá comunicarse por escrito inmediatamente a la otra administración.

ARTÍCULO 102. Dirección del remitente y del destinatario

Para ser admitido como envío, este deberá llevar en letras romanas y números arábigos sobre el mismo o en un rótulo firmemente adherido, los nombres y las direcciones completas del remitente y del destinatario.

ARTÍCULO 103. Requisitos de Embalaje

1. Cada envío deberá ser embalado y cerrado en una forma que resulte conveniente al peso, formas y naturaleza del contenido como así al modo y duración del transporte.

2. Cada envío deberá embalarse y cerrarse a fin de que no presente ningún peligro si contiene artículos que puedan herir a los encargados de su manipuleo o que puedan ensuciar o averiar otros envíos o equipos postales.

3. Cada envío tendrá, en su embalaje o faja, suficiente espacio para las instrucciones de servicio y para el adherido de rótulos.

4. Todo envío que requiera embalaje especial podrá confeccionarse de acuerdo con las cláusulas sobre embalado de las Reglamentaciones Detalladas de la Convención.

ARTÍCULO 104. Confección general de despachos

1. Los despachos de este servicio se confeccionarán en sacas cerradas, e irán acompañados de los formularios parte de entrega y manifiesto exigidos por estas reglamentaciones.
2. Los envíos en cada despacho se incluirán en sacas azul y naranja de este servicio.
3. Cada saca deberá llevar una carátula con barras de color azul y naranja que se adoptara como símbolo del Servicio Expreso Internacional. Cada saca deberá indicar claramente la oficina de cambio de destino.

ARTÍCULO 105. Manifiestos

1. Cada despacho deberá ir acompañado de un manifiesto del Servicio Expreso Internacional, en una fórmula aceptable a cada administración.
2. Todo envío despachado a través de los servicios regulares se deberá anotar separadamente en el manifiesto. Si no se remite ningún envío en el servicio regular, deberá consignarse en el manifiesto el número del contrato y el hecho de que no se expide ningún envío.
3. El total de envíos "a pedido" en un despacho deberá ir anotado colectivamente en una sola inscripción.
4. El manifiesto deberá indicar claramente que el despacho contiene envíos del Servicio Expreso Internacional.

ARTÍCULO 106. Documentos de entrega (AV–7)

1. Cada despacho deberá ir acompañado de un parte de entrega AV–7 de la U.P.U.
2. El documento AV–7 debe llevar una clara indicación de que el despacho contiene envíos de este servicio.

ARTÍCULO 107. Oficinas de cambio

1. El intercambio de despachos de este servicio deberá hacerse por las oficinas de cambio designadas de cada administración.
2. Cada administración designará sus oficinas de cambio para el servicio e informará a la otra administración de la ubicación de tales oficinas de cambio.
3. Cada administración deberá comunicar por adelantado a la otra administración sobre modificaciones o agregados de nuevas oficinas de cambio.

ARTÍCULO 108. Control de despachos del Servicio

1. Una vez recibido un despacho perteneciente al Servicio, la administración destinataria procederá a controlar el despacho para confirmar su conformidad con el documento de entrega AV–7.

2. El contenido de cada despacho se controlará lo más pronto posible, en una oficina designada por la administración de destino, para confirmar su conformidad con el manifiesto.

ARTÍCULO 109. Notificación de irregularidades

1. Cualquier evidencia de sacas faltantes o averiadas o envíos en similar condición deberá ser comunicado a la administración de origen por télex y confirmado por escrito.
2. Cualquier otra acción tomada en relación con cualquier irregularidad deberá encuadrarse dentro de las reglamentaciones de la administración de destino.

ARTÍCULO 110. Reexpedición de envíos recibidos mal encaminados

La administración reexpedidora deberá notificar a la administración de origen, por télex o por teléfono, de los detalles concernientes a la llegada y reexpedición de cada envío o saca que se reciba mal encaminado.

ARTÍCULO 111. Devolución de envíos a origen

Cada administración que devuelva un envío por cualquier razón deberá dar, en forma manuscrita o mediante sello o rótulo en el envío y en el manifiesto que lo acompaña, las razones de su falta de entrega.

ARTÍCULO 112. Contabilidad, liquidación de cuentas

1. Los procedimientos para contabilidad y para la liquidación de cuentas de transporte aéreo interno estarán regidos por las cláusulas que cubren la contabilización de vía aérea instituídas en las Reglamentaciones Detalladas de la Convención.
2. Los procedimientos de contabilización y liquidación de cuentas para la asignación de costos de superficie por tráfico desfavorable será de la siguiente manera:

(a) La liquidación tendrá lugar a la finalización de cada año calendario.
(b) Cada administración preparará trimestralmente un estado de envíos recibidos en un formulario mutuamente aceptable, que indique el número de envíos recibidos en cada despacho basado en los datos del manifiesto del Servicio Expreso Internacional. Estos formularios se remitirán a la administración de origen dentro de los dos meses de la finalización del trimestre.
(c) Luego de verificar el estado de envíos recibidos, la administración de origen comunicará a la de destino su aceptación, mediante correspondencia. Si la verificación revela alguna discrepancia, se remitirá a la administración destinataria un estado corregido debidamente enmendado y aceptado. Si la administración de destino cuestiona las enmiendas, confirmará los datos actuales mediante la remisión de fotocopia de los manifiestos pertinentes y denuncia de irregulari-

dades a la administración de origen. Si la administración de destino no ha recibido aviso de enmienda dentro de los dos meses a partir de la fecha de remisión de los estados trimestrales de envíos recibidos, la cuenta será considerada como totalmente aceptada.

(d) Luego que cada administración ha aceptado el estado de envíos recibidos preparado por la otra, la administración acreedora preparará anualmente un estado de cuenta detallado en un formulario mutuamente aceptable que indique el total de envíos recibidos y despachados, el saldo desfavorable, tasa compensatoria por envío (desnivel de tráfico) y el total a percibir.

(e) Las Cuentas se cerrarán dentro de los 5 meses después del último día del período de liquidación.

ARTÍCULO 113. Definiciones

Las definiciones establecidas en el Artículo 2 del Acuerdo se aplicarán a estas Reglamentaciones Detalladas.

ARTÍCULO 114. Período de retención de documentos

1. La documentación de servicio se guardará durante un período mínimo de dieciocho meses a partir del día siguiente de la fecha a la que se refiere.

2. Todo documento que trate de una discrepancia o reclamación deberá guardarse hasta que su trámite quede solucionado. Si la administración que presenta el reclamo, debidamente informada del resultado de las investigaciones, deja transcurrir seis meses de la fecha de la comunicación sin presentar ninguna objeción, el asunto se considerará como terminado.

ARTICULO 115. Alteraciones o enmiendas

Estas Reglamentaciones Detalladas podrán ser alteradas o enmendadas, sin que contradigen el Acuerdo, mediante consentimiento mutuo de las Administraciones y por nota suscripta por las autoridades de cada administración postal que posean la prerrogativa de efectuar tales enmiendas.

ARTÍCULO 116. Entrada en vigencia y duración de estas Reglamentaciones Detalladas

1. Estas Reglamentaciones Detalladas entrarán en vigencia en la misma fecha que el Acuerdo del Servicio Expreso Internacional al cual se refieren.

2. Estas Reglamentaciones Detalladas, y cualquier enmienda a las mismas según el Artículo 115, tendrán la misma duración que el Acuerdo del Servicio Expreso Internacional al cual se refieren.

Confeccionado por duplicado en los idiomas inglés y castellano, siendo ambas versiones igualmente auténticas, y suscriptas en Buenos

Aires, a los cuatro días del mes de septiembre de 1980, y en Washington D.C., el día 26*th* de September de 1980.

POR LA REPUBLICA ARGENTINA:

SILVIO YORIO

Administrador General de Encotel

POR LOS ESTADOS UNIDOS DE AMERICA:

W F BOLGER

Director General de Correos

MOROCCO

Double Taxation: Taxes on Income

Convention, with exchange of notes, signed at Rabat August 1, 1977;
Transmitted by the President of the United States of America to the Senate May 2, 1978 (S. Ex. H, 95th Cong., 2d Sess.);
Reported favorably by the Senate Committee on Foreign Relations November 10, 1981 (S. Ex. Rept. No. 97-31, 97th Cong., 1st Sess.);
Advice and consent to ratification by the Senate, with a reservation and an understanding, November 18, 1981;
Ratified by the President, subject to said reservation and understanding, December 4, 1981;
Ratified by Morocco November 9, 1979;
Ratifications exchanged at Washington December 30, 1981;
Proclaimed by the President January 27, 1982;
Entered into force December 30, 1981.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention between the Government of the United States of America and the Government of the Kingdom of Morocco for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related exchange of notes, was signed at Rabat on August 1, 1977, the texts of which are hereto annexed;

The Senate of the United States of America by its resolution of November 18, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention and related exchange of notes, subject to the following:

(1) reservation that foreign tax credits shall not be allowed after January 1, 1988, for loans which U.S. taxpayers are required to make to the Government of the Kingdom of Morocco.

(2) understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the

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information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

The Convention, together with a related exchange of notes, was ratified, subject to the aforesaid reservation and understanding by the President of the United States of America on December 4, 1981, in pursuance of the advice and consent of the Senate, and was ratified on the part of the Government of the Kingdom of Morocco;

The instruments of ratification of the Convention and related exchange of notes were exchanged at Washington on December 30, 1981, and accordingly the Convention entered into force on December 30, 1981, effective as specified in Article 28 of the Convention;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim and make public the Convention and related exchange of notes to the end that they be observed and fulfilled with good faith on and after December 30, 1981, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-seventh day of January in the year of our Lord one thousand nine hundred
[SEAL] eighty-two and of the Independence of the United States of America the two hundred sixth.

RONALD REAGAN

By the President:
WALTER J STOESSEL
Acting Secretary of State

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the United States of America and the Government of the Kingdom of Morocco, desiring to conclude a convention for the avoidance of double taxation of income and the prevention of fiscal evasion have agreed upon the following articles.

Article 1

TAXES COVERED

(1) The taxes which are the subject of this Convention are:

(a) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code, [1] hereinafter referred to as the "United States Tax," and

(b) In the case of Morocco the agricultural tax; the taxes on urban property; the tax on public and private salaries, emoluments, fees, wages, pensions, and annuities; the complementary tax; the business profits tax; and the compulsory loan for investment by the

[1] 68A Stat. 3; 26 U.S.C. §§ 1–8023.

Moroccan government as provided in Article 37 of Royal Decree No. 1.010-65 of the 8th of Ramadan 1385 (31 December 1965) containing the Finance Law for the year 1966, hereinafter referred to as the "Moroccan tax."

(2) This Convention shall also apply to taxes substantially similar to those covered by paragraph (1) which are imposed in addition to, or in place of, existing taxes after the date of signature of this Convention.

(3) For the purpose of Article 22 (Nondiscrimination) the taxes covered by this Convention also include taxes of every kind imposed at the National, State, or local level. For the purpose of Article 26 (Exchange of Information) the taxes covered by this Convention also include taxes of every kind imposed at the National level.

Article 2

GENERAL DEFINITIONS

(1) In this Convention, unless the context otherwise requires:

(a) (1) The term "United States" means the United States of America; and

(ii) When used in a geographical sense, the term "United States" means the states thereof and the District of Columbia. Such term also includes:

(A) The territorial sea thereof, and

(B) The seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which the United States exercises sovereign rights, in accordance with international law, for the purpose of exploration and exploitation of the natural resources of such areas (continental shelf), but only to the extent that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation.

(b) (i) The term "Morocco" means the Kingdom of Morocco; and

(ii) When used in a geographical sense the term "Morocco" includes:

(A) The territorial sea thereof, and

(B) The seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which Morocco exercises sovereign rights, in accordance with international

law, for the purpose of exploration and exploitation of the natural resources of such areas (continental shelf), but only to the extent that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation.

(c) The term "one of the Contracting States" or "the other Contracting State" means the United States or Morocco, as the context requires.

(d) The term "person" includes an individual, a partnership, a corporation, an estate, a trust, or any body of persons.

(e) (i) The term "United States corporation" or "corporation of the United States" means a corporation which is created or organized under the laws of the United States or any state thereof or the District of Columbia or any unincorporated entity treated as a United States corporation for United States tax purposes; and

(ii) The term "Moroccan corporation" or "corporation of Morocco" means any body corporate or any entity which is treated as a body corporate under Moroccan tax law and which is resident within Morocco for Moroccan tax purposes.

(f) The term "competent authority" means:

(i) In the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) In the case of Morocco, the Minister in Charge of Finance or his delegate.

(g) The term "State" means any National State, whether or not one of the Contracting States.

(2) Any other term used in this Convention and not defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws of the Contracting State whose tax is being determined.

Article 3

FISCAL RESIDENCE

(1) In this Convention:

(a) The term "resident of Morocco" means:

(i) A Moroccan corporation, and

(ii) Any person (except a corporation or any entity treated under Moroccan law as a corporation) resident in Morocco for purposes of its tax.

(b) The term "resident of the United States" means:

(i) A United States corporation, and

(ii) Any person (except a corporation or any entity treated under United States law as

a corporation) resident in the United States for purposes of its tax, but in the case of a person acting as a partner or fiduciary only to the extent that the income derived by such person in that capacity is taxed as the income of a resident.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States:

(a) He shall be deemed to be a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States or in neither of the Contracting States, he shall be deemed to be a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests);

(b) If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed to be a resident of that Contracting State in which he has a habitual abode;

(c) If he has a habitual abode in both Contracting States or in neither of the Contracting States, he shall be deemed to be a resident of the Contracting State of which he is a citizen; and

(d) If he is a citizen of both Contracting States or of neither Contracting State the competent authorities of the Contracting States shall settle the question by mutual agreement.

For purposes of this paragraph, a permanent home is the place where an individual dwells with his family.

(3) An individual who is deemed to be a resident of one of the Contracting States and not a resident of the other Contracting State by reason of the provisions of paragraph (2) shall be deemed to be a resident only of the first-mentioned Contracting State for all purposes of this Convention, including Article 20 (General Rules of Taxation).

Article 4

PERMANENT ESTABLISHMENT

(1) For the purpose of this Convention, the term "permanent establishment" means a fixed place of business through which a resident of one of the Contracting States engages in industrial or commercial activity.

(2) The term "fixed place of business" includes but is not limited to:

(a) A seat of management;

(b) A branch;

(c) An office;

(d) A factory;

(e) A workshop;

(f) A warehouse;

(g) A store or other sales outlet;

(h) A mine, quarry, or other place of extraction of natural resources; and

(i) A building site or construction or installation project which exists for more than six months.

(3) Notwithstanding paragraphs (1) and (2), a permanent establishment shall not include a fixed place of business used only for one or more of the following:

(a) The use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;

(b) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;

(c) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of processing by another person;

(d) The maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information, for the resident; or

(e) The maintenance of a fixed place of business for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the resident.

(4) Notwithstanding paragraphs (2) and (3), a resident of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if it maintains substantial equipment for rental within the other Contracting State for a period of more than six months.

(5) A person acting in one of the Contracting States on behalf of a resident of the other Contracting State, other than an agent of an independent status to whom paragraph (6) applies, shall be deemed to be a permanent establishment in the first-mentioned Contracting State if such person has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchases of goods or merchandise for that resident.

(6) A resident of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident engages in industrial or commercial activity in that other Contracting State through a broker, general commission agent, or any other agent of an independent status, where such broker or agent is acting in the ordinary course of his business.

(7) The fact that a resident of one of the Contracting States is a related person with respect to a resident of the other Contracting State or with respect to a person who engages in industrial or commercial activity in that other Contracting State

(whether through a permanent establishment or otherwise) shall not be taken into account in determining whether the resident of the first-mentioned Contracting State has a permanent establishment in that other Contracting State.

Article 5

SOURCE OF INCOME

For purposes of this Convention:

(1) Dividends shall be treated as income from sources within a Contracting State only if paid by a corporation of that Contracting State.

(2) Interest shall be treated as income from sources within a Contracting State only if paid by such Contracting State, a political subdivision or a local authority thereof, or by a resident of that Contracting State. Notwithstanding the preceding sentence --

(a) If the person paying the interest (whether or not such person is a resident of one of the Contracting States) has a permanent establishment in one of the Contracting States in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment, or

(b) If the person paying the interest is a resident of one of the Contracting States and has a permanent establishment in a State other than a Contracting State in connection

with which the indebtedness on which the interest is paid was incurred and such interest is paid to a resident of the other Contracting State, and such interest is borne by such permanent establishment, such interest shall be deemed to be from sources within the State in which the permanent establishment is situated.

(3) Royalties described in paragraph (3) of Article 12 (Royalties) shall be treated as income from sources within a Contracting State to the extent that such royalties (a) are for the use of, or the right to use, property or rights described in such paragraph and the performance of accessory services within that Contracting State or (b) are paid for technical and economic studies described in paragraph 3(c) thereof.

(4) Income from real property and royalties from the operation of mines, quarries, or other natural resources (including gains derived from the sale of such property or the right giving rise to such royalties) shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(5) Income from the rental of tangible personal (movable) property shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(6) Income received by an individual for his performance of labor or personal services, whether as an employee or in an independent capacity, shall be treated as income from sources within a Contracting State only to the extent that such services are performed in that Contracting State. Income from personal services performed aboard ships or aircraft operated by a resident of one of the Contracting States in international traffic shall be treated as income from sources within that Contracting State if rendered by a member of the regular complement of the ship or aircraft. For purposes of this paragraph, income from labor or personal services includes pensions (as defined in paragraph (3) of Article 19 (Private Pensions and Annuities)) paid in respect of such services. Notwithstanding the preceding provisions of this paragraph, remuneration described in Article 17 (Governmental Functions) shall be treated as income from sources within a Contracting State only if paid by or from the public funds of that Contracting State or a political subdivision or local authority thereof.

(7) Income from the purchase and sale of intangible or tangible personal (including movable) property (other than gains defined as royalties by paragraph (3)(b) of Article 12 (Royalties))shall be treated as income from sources within a Contracting State only if such property is sold in that Contracting State.

(8) Notwithstanding paragraphs (1) through (7), industrial or commercial profits which are attributable to a permanent establishment which the recipient, a resident of one of the Contracting States, has in the other Contracting State, including income derived from real property and natural resources and dividends, interest, royalties (as defined in paragraph (3) of Article 12 (Royalties)), and capital gains, but only if the property or rights giving rise to such income, dividends, interest, royalties, or capital gains are effectively connected with such permanent establishment, shall be treated as income from sources within that other Contracting State.

(9) The source of any item of income to which paragraphs (1) through (8) are not applicable shall be determined by each of the Contracting States in accordance with its own law. Notwithstanding the preceding sentence, if the source of any item of income under the laws of one Contracting State is different from the source of such item of income under the laws of the other Contracting State or if the source of such income is not readily determinable under the laws of one of the Contracting States, the competent authorities of the Contracting States, may in order to prevent double taxation or further any other purpose of this Convention, establish a common source of the item of income for purposes of this Convention.

Article 6

INCOME FROM REAL PROPERTY

(1) Income from real property, including royalties in respect of the operation of mines, quarries, or other natural resources and gains derived from the sale, exchange, or other disposition of such property or of the right giving rise to such royalties, is taxable in the Contracting State in which such real property, mines, quarries, or other natural resources are situated. For purposes of this Convention, interest on indebtedness secured by real property or secured by a right giving rise to royalties in respect of the operation of mines, quarries, or other natural resources shall not be regarded as income from real property.

(2) Paragraph (1) shall apply to income derived from the usufruct, direct use, letting, or use in any other form of real property.

Article 7

BUSINESS PROFITS

(1) Industrial or commercial profits of a resident of one of the Contracting States shall be exempt from tax by the other Contracting State unless such resident is engaged in industrial or commercial activity in that other Contracting State through a permanent establishment situated therein. If such resident is so engaged, tax may be imposed by that other Contracting State on the industrial or commercial

profits of such resident but only on so much of such profits as are attributable to the permanent establishment.

(2) Where a resident of one of the Contracting States is engaged in industrial or commercial activity in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to the permanent establishment the industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the resident of which it is a permanent establishment.

(3) In the determination of profits of a permanent establishment, deductions shall be allowed for expenses incurred for the purposes of the permanent establishment, including costs and general expenses related to services rendered for the benefit of the permanent establishment whether rendered in the state where the permanent establishment is located or elsewhere.

(4) (a) The term "industrial or commercial profits of a resident" means income derived from an industrial, commercial, agricultural or mining activity, from fishing, from the operation of ships or aircraft, from the rental of personal property, and from insurance. It also means income derived from real property and natural resources, dividends, interest, royalties (as described in Article 12), and capital gains, but only if the property or the rights giving

rise to such income, dividends, interest, royalties or capital gains are effectively connected with a permanent establishment which the recipient, being a resident of one of the Contracting States, has in the other Contracting State. It does not include income received by an individual in the form of remuneration for services rendered as an employee or in the exercise of an independent profession.

(b) To determine whether property or rights are effectively connected with a permanent establishment, the factors taken into account shall include whether the rights or property are used in or held for use in carrying on industrial or commercial activity through such permanent establishment and whether the activities carried on through such permanent establishment were a material factor in the realization of the income derived from such property or rights. For this purpose, due regard shall be given to whether or not such property or rights or such income were accounted for through such permanent establishment.

(5) Where industrial or commercial profits include items of income which are dealt with separately in other articles of this Convention, the provisions of those articles shall, except as otherwise provided therein, supersede the provisions of this article.

Article 8

SHIPPING AND AIR TRANSPORT

(1) Notwithstanding Article 7 (Business Profits) and Article 13 (Capital Gains), income which a resident of one of the Contracting States derives from the operation in international traffic of ships registered in that Contracting State, and gains which a resident of one of the Contracting States derives from the sale, exchange, or other disposition of such ships operated in international traffic by such resident and registered in that Contracting State, shall be exempt from tax by the other Contracting State.

(2) Notwithstanding Article 7 (Business Profits) and Article 13 (Capital Gains), income which a resident of one of the Contracting States derives from the operation in international traffic of aircraft registered in either Contracting State or in a State with which the other Contracting State has an income tax convention exempting such income, and gains which a resident of one of the Contracting States derives from the sale, exchange, or other disposition of such aircraft operated in international traffic by such resident and registered in either Contracting State or in a State with which the other Contracting State has an income tax convention exempting such income and gains, shall be exempt from tax by the other Contracting State.

Article 9

RELATED PERSONS

(1) Where a resident of one of the Contracting States and a resident of the other Contracting State are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, any income, deductions, credits, or allowances which would, but for those arrangements or conditions, have been taken into account in computing the income (or loss) of, or the tax payable by, one of such persons, may be taken into account in computing the amount of the income subject to tax and the taxes payable by such person.

(2) A person is related to another person if either person owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

Article 10

DIVIDENDS

(1) Dividends derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by one of the Contracting States on dividends derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed --

(a) Fifteen per cent of the gross amount actually distributed; or

(b) When the recipient is a corporation, ten per cent of the gross amount actually distributed if --

(i) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least ten per cent of the voting shares of the paying corporation was owned by the recipient corporation, and

(ii) Not more than twenty-five per cent of the gross income of the paying corporation for such prior taxable year (if any) consists of interest or dividends (other than interest derived from the conduct of a banking, insurance, or financing business or dividends or interest received from subsidiary corporations, fifty per cent or more of the outstanding shares of the voting stock of which is owned by the paying corporation at the time such dividends or interest is received).

(3) Paragraph (2) shall not apply if the recipient of the dividends, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment. In such a case, see paragraph (4)(a) of Article 7 (Business Profits).

(4) Dividends paid by a corporation of one of the Contracting States to a person other than a resident of the other Contracting State (and in the case of dividends paid by a Moroccan corporation, to a person other than a citizen of the United States) shall be exempt from tax by that other Contracting State. This paragraph shall not apply if the recipient of the dividends has a permanent establishment in that other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment.

Article 11

INTEREST

(1) Interest derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by one of the Contracting States on interest derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed fifteen percent.

(3) Paragraphs (1) and (2) shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 (Business Profits) shall apply.

(4) The term "interest" as used in this Article means income from Government securities, bonds, or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income has its source.

(5) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(6) Interest received by one of the Contracting States, or by an instrumentality of that State not subject to income tax by such State, shall be exempt in the State in which such interest has its source.

Article 12

ROYALTIES

(1) Royalties derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by a Contracting State on royalties derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed ten percent.

(3) The term "royalties" as used in this Article means --

(a) payment of any kind made as consideration for the use of, or for the right to use, copyrights of literary, artistic, scientific works, copyrights of motion picture films or films or tapes used for radio or television broadcasting, patents, designs or models, plans, secret processes or formulae, trademarks, or other like property rights, or knowledge, experience, or skill (know-how), including the performance of accessory technical assistance for the use of such property or rights to the extent that such assistance is performed in the Contracting State where the payment for the property or right has its source.

(b) gains derived from the sale, exchange or other disposition of other such property or rights to the extent that the amounts realized on such sale, exchange or other disposition for consideration are contingent on the productivity, use, or disposition of such property, or rights, and

(c) remuneration for technical and economic studies paid for out of public funds of the Moroccan Government in the discharge of functions of a governmental nature by the Moroccan Government or a political subdivision or a local authority thereof.

(4) Paragraph (2) shall not apply if the recipient of the royalty, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment and the property or rights giving rise to the royalty is effectively connected with such permanent establishment. In such a case, see paragraph (4) (a) of Article 7 (Business Profits).

(5) Where any royalty paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so much of the royalty as would have been paid to an unrelated person. In such a case, the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

Article 13

CAPITAL GAINS

(1) A resident of one of the Contracting States shall be taxable only in that State on gains from the sale or exchange of capital assets.

(2) Paragraph (1) of this Article shall not apply if --

(a) The gain is received by a resident of one of the Contracting States and arises out of the sale or exchange of property described in Article 6 (Income from Real Property) located within the other Contracting State or of the sale or exchange of shares or comparable interests in a real property cooperative or of a corporation whose assets consist principally of such property.

(b) The recipient of the gain, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the property giving rise to the gain is effectively connected with such permanent establishment, or

(c) The recipient of the gain, being an individual resident of one of the Contracting States --

(i) Maintains a fixed base in the other Contracting State and the property giving rise to such gain is effectively connected to such fixed base, or

(ii) Is present in the other Contracting State for a period or periods exceeding in the aggregate one hundred eighty-three days during the taxable year.

(3) In the case of gains described in paragraph (2)(b), the provisions of Article 7 shall apply.

Article 14

INDEPENDENT PERSONAL SERVICES

(1) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity, may be taxed by that Contracting State. Except as provided in paragraph (2), such income shall be exempt from tax by the other Contracting State.

(2) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State, if:

(a) The individual is present in that other Contracting State for a period or periods aggregating one hundred eighty-three days or more in the taxable year, or

(b) The individual maintains a fixed base in that other Contracting State for a period or periods aggregating ninety days or more in the taxable year, but only so much of it as is attributable to such fixed base, or

(c) The gross amount of such income exceeds $5,000 or the equivalent amount in Moroccan dirhams.

(3) The term "personal services in an independent capacity" means all the activities--other than commercial,

industrial, or agricultural activities--carried on on his own account independently by a person who receives the proceeds or bears the losses arising from these activities.

Article 15

DEPENDENT PERSONAL SERVICES

(1) Notwithstanding the provisions of Article 18 (Students and Trainees) and Article 17 (Government Functions) wages, salaries, and similar remuneration derived by an individual who is a resident of one of the Contracting States from labor or personal services performed as an employee may be taxed by that Contracting State. Except as provided by paragraph (2) such remuneration derived from sources within the other Contracting State may also be taxed by that other Contracting State.

(2) Remuneration described in paragraph (1), other than compensation for services rendered by a member of the board of directors of a corporation, derived by an individual who is a resident of one of the Contracting States shall be exempt from tax by the other Contracting State if --

(a) He is present in that other Contracting State for a period or periods aggregating less than one hundred eighty-three days in the taxable year;

(b) He is an employee of a resident of the first-mentioned Contracting State or of a permanent establishment maintained in that Contracting State by a resident of a State other than that Contracting State; and

(c) The remuneration is not borne by a permanent establishment which the employer has in that other Contracting State.

(3) Notwithstanding paragraph (2), remuneration derived by an individual from the performance of labor or personal services as an employee aboard ships or aircraft operated by a resident of one of the Contracting States in international traffic shall be exempt from tax by the other Contracting State if such individual is a member of the regular complement of the ship or aircraft.

Article 16

ARTISTS AND ATHLETES

(1) Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), the income of professional entertainers, including theater, film, radio, and television performers, musicians, and athletes performing personal services as entertainers, may be taxed in the Contracting State where such services are performed.

(2) When the income from the performance of personal services by an entertainer or athlete is attributed to a person other than the artist or athlete himself, notwithstanding the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services), and 15 (Dependent Personal Services), such income may be taxed in the Contracting State where the activities of the artist or athlete are performed.

(3) The provisions of paragraph (1) do not apply to income from services performed in a Contracting State by a non-profit organization of the other Contracting State or by members of the personnel of such an organization unless the latter are acting for their own account.

Article 17

GOVERNMENTAL FUNCTIONS

Wages, salaries, and similar remuneration, including pensions or similar benefits, paid by or from public funds of one of the Contracting States, to a citizen of that Contracting State for labor or personal services performed for that Contracting State, or for any of its political subdivisions or local authorities, in the discharge of governmental functions shall be exempt from tax by the other Contracting State.

Article 18

STUDENTS AND TRAINEES

(1) (a) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of --

(i) Studying at a university or other recognized educational institution in that other Contracting State, or

(ii) Securing training required to qualify him to practice a profession or professional specialty, or

(iii) Studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,

shall be exempt from tax by that other Contracting State with respect to amounts described in subparagraph (b) for a period not exceeding five taxable years from the date of his arrival in that other Contracting State.

(b) The amounts referred to in subparagraph (a) are --

(i) Gifts from abroad for the purpose of his maintenance, education, study, research, or training;

(ii) The grant, allowance, or award; and

(iii) Income from personal services performed in that other Contracting State in an amount not in excess of 2,000 United States dollars or its equivalent in Moroccan dirhams for any taxable year.

Article 19

PRIVATE PENSIONS AND ANNUITIES

(1) Except as provided in Article 17 (Governmental Functions), pensions and other similar remuneration paid to an individual who is a resident of one of the Contracting States in consideration of past employment shall be taxable only in that Contracting State.

(2) Alimony and annuities paid to an individual who is a resident of one of the Contracting States shall be taxable only in that Contracting State.

(3) The term "pensions and other similar remuneration," as used in this article, means periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received, in connection with past employment.

(4) The term "annuities," as used in this article, means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

(5) The term "alimony," as used in this article, means periodic payments made pursuant to a decree of divorce, separate maintenance agreement, or support or separation agreement which is taxable to the recipient under the internal laws of the Contracting State of which he is a resident.

Article 20

GENERAL RULES OF TAXATION

(1) A resident of one of the Contracting States may be taxed by the other Contracting State on any income from sources within that other Contracting State and only on such income, subject to any limitations set forth in this Convention. For this purpose, the rules set forth in Article 5 (Source of Income) shall be applied to determine the source of income.

(2) The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded --

(a) By the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State, or

(b) By any other agreement between the Contracting States.

(3) Notwithstanding any provisions of this Convention except paragraph (4), a Contracting State may tax a citizen or resident of that Contracting State as if this Convention had not come into effect.

(4) The provisions of paragraph (3) shall not affect:

(a) The benefits conferred by a Contracting State under Articles 21 (Relief from Double Taxation), 22 (Nondiscrimination), and 25 (Mutual Agreement Procedure); and

(b) The benefits conferred by a Contracting State under Articles 18 (Students and Trainees), and 17 (Governmental Functions), upon individuals who are neither citizens of, nor have immigrant status in, that Contracting State.

(5) The United States may impose its personal holding company tax and accumulated earnings tax as if this Convention had not come into effect. However:

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(a) A Moroccan corporation shall be exempt from the United States personal holding company tax in any taxable year if all of its stock is owned by one or more individual residents of Morocco in their individual capacities for that entire year.

(b) A Moroccan corporation shall be exempt from the United States accumulated earnings tax in any taxable year unless such corporation is engaged in trade or business in the United States through a permanent establishment at any time during such year.

(6) The competent authorities of the two Contracting States may prescribe regulations necessary to carry out the provisions of this Convention.

(7) Where, pursuant to any provision of this Convention, a Contracting State reduces the rate of tax on, or exempts income of a resident of the other Contracting State and under the law in force in that other Contracting State the resident is subject to tax by that other Contracting State only on that part of such income which is remitted to or received in that other Contracting State, then the reduction or exemption shall apply only to so much of such income as is remitted to or received in that other Contracting State.

Article 21

RELIEF FROM DOUBLE TAXATION

Double taxation of income shall be avoided in the following manner:

(1) The United States shall allow to a citizen or resident of the United States as a credit against the United States tax specified in paragraph (1)(a) of Article 1 the appropriate amount of income taxes paid to Morocco. Such appropriate amount shall be based upon the amount of tax paid to Morocco, but shall not exceed that portion of the United States tax which such citizen's or resident's net income from sources within Morocco bears to his entire net income for the same taxable year.

(2) For purposes of computing the appropriate amount of taxes paid to Morocco, a citizen or resident of the United States who receives income or dividends from Morocco may elect to include in the computation of Moroccan tax for purposes of paragraph (1) the amount required to be invested in Moroccan equipment bonds under Article 37 of the Royal Decree No. 1.010-65 of the 8th of Ramadan 1385 (December 31, 1965) containing the Finance Law for the year 1966, in accordance with regulations issued by the Secretary of the Treasury or his delegate; provided that the United States citizen or resident agrees that any repayment by the Moroccan Government of such bonds shall be treated for purposes of this Article as a refund of Moroccan tax for the year of such repayment.

(3) Morocco shall allow to a citizen or resident of Morocco as a credit against the Moroccan tax specified

in paragraph (1)(b) of Article 1 the appropriate amount of income taxes paid to the United States. Such appropriate amount shall be based upon the amount of tax paid to the United States but shall not exceed that portion of the Moroccan tax which such citizen's or resident's net income from sources within the United States bears to his entire net income for the same taxable year.

Article 22

NONDISCRIMINATION

(1) A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than a citizen of that other Contracting State who is a resident thereof.

(2) A permanent establishment which a resident of one of the Contracting States has in the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than a resident of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging a Contracting State to grant to individual residents of the other Contracting State any personal allowances, reliefs, or deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own individual residents.

(3) A corporation of one of the Contracting States, the capital of which is wholly or partly owned or

controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a corporation of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned or controlled by one or more residents of the first-mentioned Contracting State, is or may be subjected.

Article 23

DIPLOMATIC AND CONSULAR OFFICERS

Nothing in this Convention shall affect the fiscal privileges of diplomatic and consular officials under the general rules of international law or under the provisions of special agreements.

Article 24

INVESTMENT OR HOLDING COMPANIES

A corporation of one of the Contracting States deriving dividends, interest, royalties, or capital gains from sources within the other Contracting State shall not be entitled to the benefits of Article 10 (Dividends), 11 (Interest), 12 (Royalties), or 13 (Capital Gains) if --

(a) By reason of special measures the tax imposed on such corporation by the first-mentioned Contracting State with respect to such dividends, interest, royalties, or capital gains is

substantially less than the tax generally imposed by such Contracting State on corporate profits, and

(b) Twenty-five percent or more of the capital of such corporation is held of record or is otherwise determined, after consultation between the competent authorities of the Contracting States, to be owned directly or indirectly, by one or more persons who are not individual residents of the first-mentioned Contracting State (or, in the case of a Moroccan corporation, who are citizens of the United States).

Article 25

MUTUAL AGREEMENT PROCEDURE

(1) Where a resident of one of the Contracting States considers that the action of one or both of the Contracting States results or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident. Should the resident's claim be considered to have merit by the competent authority of the Contracting State to which the claim is made, it shall endeavor to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of this Convention.

(2) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the application of this Convention. In particular, the competent authorities of the Contracting States may agree --

(a) To the same attribution of industrial or commercial profits to a resident of one of the Contracting States and its permanent establishment situated in the other Contracting State;

(b) To the same allocation of income, deductions, credits, or allowances between a resident of one of the Contracting States and any related person;

(c) To the same determination of the source of particular items of income; or

(d) To the same meaning of any term used in this Convention.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of this article. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

(4) In the event that the competent authorities reach such an agreement, taxes shall be imposed on such income and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

Article 26

EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is pertinent to carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect of the taxes which are the subject of this Convention.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation --

(a) To carry out administrative measures at variance with the laws or the administrative practice of that Contracting State or the other Contracting State;

(b) To supply particulars which are not obtainable under the laws, or in the normal course of the administration, of that Contracting State or of the other Contracting State; or

(c) To supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States may agree on the list of information which shall be furnished on a routine basis.

(4) The competent authorities of the Contracting States shall notify each other of any amendments of the tax laws referred to in paragraph (1) of Article 1 (Taxes Covered) and of the adoption of any taxes referred to in paragraph (2) of Article 1 (Taxes Covered) by transmitting the texts of any amendments or new statutes at least once a year.

(5) The competent authorities of the Contracting States shall notify each other of the publication by their respective Contracting States of any material concerning the application of this Convention, whether in the form of regulations, rulings, or judicial decisions by transmitting the texts of any such materials at least once a year.

Article 27

EXTENSION TO TERRITORIES

(1) Either one of the Contracting States may, at any time while this Convention continues in force, by a written notification given to the other Contracting State through diplomatic channels, declare its desire that the operation of this Convention, either in whole of in part or with such modifications as may be found necessary for special application in a particular case,

shall extend to all or any of the areas (to which this Convention is not otherwise applicable) for whose international relations it is responsible and which impose taxes substantially similar in character to those which are the subject of this Convention. When the other Contracting State has, by a written communication through diplomatic channels, signified to the first-mentioned Contracting State that such notification is accepted in respect of such area or areas, and the notification and communication have been ratified and instruments of ratification exchanged, this Convention, in whole or in part, or with such modifications as may be found necessary for special application in a particular case, as specified in the notification, shall apply to the area or areas named in the notification and shall enter into force and effect on and after the date or dates specified therein. None of the provisions of this Convention shall apply to any such area in the absence of such acceptance and exchange of instruments of ratification in respect of that area.

(2) At any time after the date of entry into force of an extension under paragraph (1), either of the Contracting States may, by six months' prior notice of termination given to the other Contracting State through diplomatic channels, terminate the application of this Convention to any area to which it has been extended under paragraph (1), and in such event this Convention shall cease to apply and have force and effect, beginning on or after the first day of January next

following the expiration of the six month period, to the area or areas named therein, but without affecting its continued application to the United States, Morocco, or to any other area to which it has been extended under paragraph [1].

(3) In the application of this Convention in relation to any area to which it is extended by notification by the United States or Morocco, reference to the "United States" or "Morocco" as the case may be, shall be construed as referring to that area.

(4) The termination in respect of the United States or Morocco of this Convention under Article 29 (Termination) shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Convention to any area to which the Convention has been extended under this article by the United States or Morocco.

Article 28

ENTRY INTO FORCE

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible thereafter at Washington, D. C.

(2) The present Convention shall enter into force upon the exchange of instruments of ratification and will apply as follows:

(a) To taxes due at the source on income payable or paid on and after the first day of the month following the exchange of instruments of ratification, and

[1] Dec. 30, 1981.

(b) In the case of other taxes imposed on income for taxable years beginning on and after the first of January of the year of ratification.

Article 29

TERMINATION

The present Convention will remain in force indefinitely; however, each Contracting State may, prior to the 30th of June in any calendar year at any time after five years from the date on which this Convention enters into force, terminate the Convention in writing submitted through diplomatic channels to the other Contracting State. In the event of a termination before July 1 of any such year, the Convention will continue to apply for the last time:

(1) To taxes due at the source on income payable or paid not later than December 31 of the year in which such termination occurs, and

(2) In the case of other taxes imposed on income for taxable periods ending not later than December 31 of the same year.

DONE in triplicate, in the English, French and Arabic languages, the three texts having equal authenticity, this First day of August, 1977.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Robert Anderson
Ambassador of the United States of America

FOR THE GOVERNMENT OF THE KINGDOM OF MOROCCO

Abdelkader Benslimane
Minister of Finance

CONVENTION ENTRE LES ETATS UNIS D'AMERIQUE
ET LE ROYAUME DU MAROC
EN VUE D'EVITER LA DOUBLE IMPOSITION EN
MATIERE D'IMPOTS SUR LE REVENU

Le Gouvernement des Etats Unis d'Amérique et le Gouvernement du Royaume du Maroc, désireux de conclure une convention en vue d'éviter la double imposition en matière d'impôts sur le revenu et d'empêcher l'évasion fiscale, sont convenus des dispositions suivantes.

Article Premier

IMPOTS VISES

(1) Les impôts qui font l'objet de la présente Convention sont :

(a) En ce qui concerne les Etats Unis : les impôts fédéraux sur le revenu prévus par l'Internal Revenue Code, ci-après dénommés "impôt des Etats Unis", et

(b) En ce qui concerne le Maroc, l'impôt agricole; la taxe urbaine et les taxes y rattachées; l'impôt sur les bénéfices professionnels et le prêt obligatoire pour l'investissement

par le Gouvernement marocain prévu par l'article 37 du Décret Royal no. 1-010-65 du 8 Ramadan 1385 (31 Décembre 1965) portant Loi de Finances pour l'année 1966; le prélèvement sur les traitements publics et privés, les indemnités et émoluments, les salaires, les pensions et les rentes viagères; la contribution complémentaire sur le revenu global des personnes physiques, ci-après dénommés "impôt marocain".

(2) La présente Convention s'appliquera aux impôts futurs de nature analogue qui s'ajouteraient aux impôts actuels ou qui les remplaceraient après la date de signature de la présente Convention.

(3) Pour les besoins de l'Article 22 (non-discrimination) la présente Convention s'applique également aux impôts de toute nature, qu'il soient perçus pour le compte de l'Etat, des collectivités locales ou des Etats. Pour les besoins de l'Article 26 (Echange de renseignements), la présente Convention s'applique également aux impôts de toute nature perçus pour le compte de l'Etat.

Article 2

DEFINITIONS GENERALES

(1) Au sens de la présente Convention, à moins que le contexte n'exige une interprétation différente :

(a) (i) le terme "Etats Unis" désigne les Etats Unis d'Amérique, et

(ii) lorsqu'il est employé dans un sens géographique, le terme "Etats Unis" désigne les Etats membres et le District de Columbia. Ce terme désigne également:

(A) leur mer territoriale et

(B) le lit de la mer et le sous-sol des régions sous-marines adjacentes à la côte des Etats Unis, mais situées au-delà de la mer territoriale, sur lesquels les Etats Unis exercent conformément au droit international, des droits souverains aux fins d'exploration et d'exploitation des ressources naturelles de ces régions (plateau continental), mais uniquement dans la mesure où la personne, le bien ou l'activité auxquels la présente Convention est appliquée sont en rapport avec cette exploration ou avec cette exploitation.

(b) (i) Le terme "Maroc" désigne le Royaume du Maroc, et

(ii) lorsqu'il est employé dans un sens géographique, le terme "Maroc" comprend :

(A) la mer territoriale du Maroc et

(B) le lit de la mer et le sous-sol des régions sous-marines adjacentes à la côte du Maroc, mais situées au-delà de la mer territoriale, sur lesquels le Maroc exerce, conformément au droit international, des droits souverains, aux fins d'exploration et d'exploitation des ressources naturelles de ces régions (plateau continental), mais uniquement dans la mesure où la personne, le bien ou l'activité auxquels la présente Convention est appliquée sont en rapport avec cette exploration ou avec cette exploitation.

(c) L'expression "Un Etat contractant" ou "l'autre Etat contractant" désigne, suivant le contexte, les Etats-Unis ou le Maroc.

(d) Le terme "personne" comprend une personne physique, une association de personnes, une société, une succession, un trust ou tout autre groupement de personnes.

(e) (i) L'expression "société américaine" ou "société des Etats Unis" désigne une société créée ou organisée d'après la législation des Etats Unis ou d'un Etat membre ou du District de Columbia, ou toute entité sans personnalité

juridique considérée comme une société américaine pour l'application de l'impôt des Etats Unis et

(ii) l'expression "société marocaine" ou "société du Maroc" désigne toute personne morale ou toute entité qui, suivant la législation fiscale marocaine, est considérée comme une personne morale et est résidente du Maroc pour l'application de l'impôt marocain.

(f) L'expression "autorité compétente" désigne :

(i) en ce qui concerne les Etats Unis, le Secrétaire au Trésor ou son délégué, et

(ii) en ce qui concerne le Maroc, le Ministre chargé des Finances ou son délégué.

(g) Le terme "Etat" désigne tout Etat souverain, qu'il soit ou non un Etat contractant.

(2) Toute autre expression employée et non définie dans la présente Convention, à moins que le contexte n'exige une interprétation différente, a le sens qui lui est attribué par la législation de l'Etat contractant dont l'impôt doit être établi.

Article 3

DOMICILE FISCAL

(1) Au sens de la présente Convention :

(a) L'expression "résident du Maroc" désigne :

(i) une société marocaine, et

(ii) toute personne (autre qu'une société ou une entité juridique qui, suivant la législation marocaine, est considérée comme une société) qui est résidente du Maroc pour l'application de l'impôt marocain.

(b) L'expression "résident des Etats Unis" désigne :

(i) une société américaine, et

(ii) toute personne (autre qu'une société ou une entité juridique considérée comme une société au regard de la législation des Etats Unis) qui est considérée comme résidente des Etats Unis pour son imposition, mais dans le cas d'une personne qui est membre d'une société de personnes (partnership) ou qui agit à titre de représentant (fiduciary) seulement dans la mesure où le revenu détenu par une telle personne en cette qualité est imposé comme le revenu d'un résident.

(2) Lorsque, selon les dispositions du paragraphe (1), une personne physique est résidente de chacun des Etats contractants :

(a) Cette personne est considérée comme résidente de l'Etat contractant où elle possède son foyer d'habitation permanent. Lorsqu'elle possède un foyer d'habitation permanent dans les deux Etats contractants ou qu'elle ne possède de foyer d'habitation dans aucun des Etats contractants, elle est considérée comme résidente de l'Etat contractant avec lequel ses liens personnels et économiques sont les plus étroits (centre des intérêts vitaux).

(b) Si l'Etat contractant où cette personne a le centre de ses intérêts vitaux ne peut pas être déterminé, elle est considérée comme résidente de l'Etat contractant où elle séjourne de façon habituelle.

(c) Si cette personne séjourne de façon habituelle dans chacun des Etats contractants ou qu'elle ne séjourne de façon habituelle dans aucun des Etats contractants, elle est considérée comme résidente de l'Etat contractant dont elle est ressortissante; et

(d) Si cette personne est ressortissante de chacun des Etats contractants ou qu'elle n'est ressortissante d'aucun des Etats contractants, les

autorités compétentes des Etats contractants tranchent la question d'un commun accord.

Pour l'application du présent paragraphe, un foyer d'habitation permanent est le lieu où une personne physique demeure avec sa famille.

(3) Une personne physique qui est considérée comme résidente d'un Etat contractant et comme n'étant pas résidente de l'autre Etat contractant en vertu des dispositions du paragraphe (2) sera considérée seulement comme résidente du premier Etat pour l'application de toutes les dispositions de la présente Convention, y compris l'Article 20 (Règles générales d'Imposition).

Article 4

ETABLISSEMENT STABLE

(1) Au sens de la présente Convention, l'expression "établissement stable" désigne une installation fixe d'affaires par l'intermédiaire de laquelle un résident d'un Etat contractant exerce une activité industrielle ou commerciale.

(2) L'expression "installation fixe d'affaires" comprend notamment :

(a) un siège de direction;

(b) une succursale;

(c) un bureau;

(d) une usine;

(e) un atelier;

(f) un entrepôt;

(g) un magasin ou autre lieu de vente;

(h) une mine, une carrière ou tout autre lieu d'extraction de ressources naturelles;

(i) un chantier ou projet de construction ou de montage dont la durée dépasse six mois.

(3) Nonobstant les dispositions des paragraphes (1) et (2) on ne considère pas qu'il y a établissement stable lorsqu'une installation fixe d'affaires sert uniquement à l'exercice de l'une ou de plusieurs des activités suivantes :

(a) l'usage d'installations aux fins de stockage, d'exposition ou de livraison de marchandises appartenant au résident.

(b) L'entreposage de marchandises appartenant au résident aux fins de stockage, d'exposition ou de livraison.

(c) L'entreposage de marchandises appartenant au résident aux fins de transformation par une autre personne.

(d) L'utilisation d'une installation fixe d'affaires aux fins d'acheter des marchandises ou de réunir des informations pour le résident.

(e) L'utilisation d'une installation fixe d'affaires aux fins de publicité, de fourniture d'information, de recherches scientifiques ou

d'activités analogues qui ont pour le résident un caractère préparatoire ou auxiliaire.

(4) Nonobstant les dispositions des paragraphes (2) et (3), un résident de l'un des Etats contractants est considéré comme ayant un établissement stable dans l'autre Etat contractant s'il y maintient un matériel important à des fins de locations pour une période de plus de six mois.

(5) Une personne - autre qu'un agent jouissant d'un statut indépendant visé au paragraphe (6) - qui agit dans un Etat contractant pour le compte d'un résident de l'autre Etat contractant est considérée comme constituant un établissement stable dans le premier Etat contractant si elle dispose dans cet Etat contractant de pouvoirs qu'elle y exerce habituellement lui permettant de conclure des contrats au nom de ce résident, à moins que l'exercice de ces pouvoirs ne soit limité à l'achat de marchandises pour ce résident.

(6) On ne considère pas qu'un résident d'un Etat contractant a un établissement stable dans l'autre Etat contractant du seul fait qu'il y exerce une activité industrielle ou commerciale par l'entremise d'un courtier, d'un commissionnaire général ou de tout autre intermédiaire jouissant d'un statut indépendant, à condition que ce courtier, commissionnaire ou intermédiaire agisse dans le cadre ordinaire de son activité.

(7) Le fait qu'un résident d'un Etat contractant est lié à un résident de l'autre Etat contractant ou à une personne qui exerce une activité industrielle ou commerciale dans cet autre

Etat contractant (que ce soit par l'intermédiaire d'un établissement stable ou non) n'est pas pris en considération pour déterminer si ce résident du premier Etat contractant a un établissement stable dans cet autre Etat contractant.

Article 5

SOURCE DU REVENU

Au sens de la présente Convention :

(1) Les dividendes sont considérés comme ayant leur source dans un Etat contractant seulement dans le cas où ils sont payés par une société de cet Etat contractant.

(2) Les intérêts sont considérés comme ayant leur source dans un Etat contractant seulement dans le cas où ils sont payés par cet Etat contractant, par une de ses subdivisions politiques ou collectivités locales ou par un résident de cet Etat contractant. Nonobstant la phrase précédente :

(a) si le débiteur des intérêts (qu'il soit ou non résident d'un Etat contractant) a dans un Etat contractant un établissement stable pour lequel l'emprunt générateur des intérêts a été contracté et qui supporte la charge de ces intérêts, ou

(b) si le débiteur des intérêts est un résident d'un Etat contractant et a, dans un Etat autre qu'un Etat contractant, un établissement stable

pour lequel l'emprunt générateur des intérêts a été contracté et qui supporte la charge de ces intérêts payés à un résident de l'autre Etat contractant, ces intérêts sont réputés avoir leur source dans l'Etat où est situé l'établissement stable.

(3) Les redevances visées au paragraphe (3) de l'Article 12 (Redevances) sont considérées comme ayant leur source dans un Etat contractant dans la mesure où elles :

(a) ont trait à l'usage ou à la concession de l'usage desdits biens ou droits et la prestation de services accessoires à l'intérieur de cet Etat contractant;

(b) sont payées pour des études techniques et économiques définies au paragraphe (3) (c) de l'Article 12.

(4) Les revenus provenant de biens immobiliers et les redevances afférentes à l'exploitation de mines, carrières ou autres ressources naturelles (y compris les gains provenant de la vente de ces biens ou des droits générateurs de ces redevances) sont considérés comme ayant leur source dans un Etat contractant seulement dans le cas où ces biens sont situés dans cet Etat contractant.

(5) Les revenus provenant de la location de biens corporels (biens meubles) sont considérés comme ayant leur source dans un Etat contractant seulement dans le cas où ces biens sont situés dans cet Etat contractant.

(6) Les revenus reçus par une personne physique pour l'exécution de travail ou de services personnels, soit dans le cadre d'un emploi salarié, soit à titre indépendant, sont considérés comme ayant leur source dans un Etat contractant seulement dans la mesure où lesdits services sont accomplis danc cet Etat contractant. Les revenus perçus pour des services personnels exécutés à bord de navires ou d'aéronefs exploités en trafic international par un résident d'un Etat contractant sont considérés comme ayant leur source dans cet Etat contractant, si ces services sont rendus par un membre de l'équipage régulier du navire ou de l'aéronef. Au sens du présent paragraphe les revenus reçus pour un travail ou des services personnels comprennent les pensions (telles que définies au paragraphe (3) de l'Article 19 (Pensions et rentes privées) versées relativement à ces services. Nonobstant les dispositions précédentes du présent paragraphe les rémunérations visées à l'Article 17 (Fonctions publiques) sont considérées comme ayant leur source dans un Etat contractant seulement dans le cas où elles sont versées par cet Etat contractant ou par une de ses subdivisions politiques ou un de ses organismes locaux, par prélèvement sur leurs fonds publics.

(7) Les revenus tirés de l'achat et de la vente des biens incorporels ou corporels (y compris de biens meubles) autres que les gains définis comme redevances à l'Article 12 (Redevances), paragraphe (3) (b), sont considérés comme ayant leur source dans un Etat contractant seulement dans le cas où ces biens sont vendus dans cet Etat contractant.

(8) Nonobstant les dispositions des paragraphes (1) à (7) inclusivement, les bénéfices industriels ou commerciaux qui proviennent d'un établissement stable qu'a le bénéficiaire, résident d'un Etat contractant, dans l'autre Etat contractant, y compris les revenus tirés de biens immobiliers et de ressources naturelles, les dividendes, les intérêts, les redevances (telles qu'elles sont visées à l'Article 12 (Redevances), paragraphe (3), et les gains en capital, mais seulement dans la mesure où les biens ou les droits générateurs de ces revenus, dividendes, intérêts, redevances ou gains en capital ont effectivement un lien avec cet établissement stable, sont considérés comme ayant leur source dans cet autre Etat contractant.

(9) La source de tout élément de revenu auquel les paragraphes (1) à (8) inclusivement ne sont pas applicables est déterminée par chacun des Etats contractants conformément à sa propre législation. Nonobstant la phrase précédente, si la source de tout élément de revenu en vertu de la législation d'un Etat contractant est différente de la source de cet élément de revenu en vertu de la législation de l'autre Etat contractant, ou si la source de ce revenu ne peut être aisément déterminée conformément à la législation d'un Etat contractant, les autorités compétentes des Etats contractants peuvent, en vue d'éviter une double imposition ou de répondre à tout autre but de la présente Convention, établir une source commune de l'élément de revenu pour les besoins de la présente Convention.

Article 6

REVENUS IMMOBILIERS

(1) Les revenus provenant de biens immobiliers, y compris les redevances afférentes à l'exploitation des mines, carrières ou autres ressources naturelles, ainsi que les gains provenant de la vente, de l'échange ou de toute autre forme d'aliénation de ces biens ou des droits générateurs de ces redevances, sont imposables dans l'Etat contractant où sont situés les immeubles, mines, carrières ou autres ressources naturelles. Pour l'application de la présente Convention, les intérêts d'emprunts garantis par des biens immobiliers ou par un droit générateur de redevances afférentes à l'exploitation des mines, carrières ou autres ressources naturelles ne sont pas considérés comme des revenus de biens immobiliers.

(2) Les dispositions du paragraphe (1) s'appliquent aux revenus provenant de l'usufruit, de l'exploitation directe ou de la location ainsi que de toute autre forme d'exploitation des biens immobiliers.

Article 7

BENEFICE DES ENTREPRISES

(1) Les bénéfices industriels ou commerciaux d'un résident d'un Etat contractant sont exemptés d'impôts par l'autre Etat contractant à moins que ce résident n'exerce une activité industrielle ou commerciale dans cet autre Etat contractant

par l'intermédiaire d'un établissement stable qui y est situé. Si le résident exerce une activité d'une telle façon, ses bénéfices industriels ou commerciaux sont imposables par cet autre Etat mais uniquement dans la mesure où ils sont imputables audit établissement stable.

(2) Lorsqu'un résident d'un Etat contractant exerce une activité industrielle ou commerciale dans l'autre Etat contractant par l'intermédiaire d'un établissement stable qui y est situé, il est imputé, dans chaque Etat contractant, à l'établissement stable les bénéfices industriels ou commerciaux qui lui auraient été imputables s'il avait constitué une entité indépendante exerçant des activités identiques ou analogues dans des conditions identiques ou analogues et traitant en toute indépendance avec le résident dont il constitue un établissement stable.

(3) Dans le calcul des bénéfices d'un établissement stable, sont admises en déduction les dépenses exposées aux fins poursuivies par cet établissement stable, y compris les dépenses et les frais généraux afférents aux services rendus au profit de cet établissement stable, soit dans l'Etat où est situé cet établissement stable, soit ailleurs.

(4) (a) L'expression "bénéfices industriels ou commerciaux d'un résident" désigne les revenus provenant d'une activité industrielle, commerciale, agricole ou minière, de la pêche, de l'exploitation de navires ou d'aéronefs, de la location de biens mobiliers, d'activité d'assu-

rances. Elle désigne également les revenus provenant de biens immobiliers et de ressources naturelles, les dividendes, les intérêts, les redevances (telles qu'elles sont visées à l'Article 12), et les gains en capital, mais seulement dans la mesure où le droit ou le bien générateur de ces revenus, de ces dividendes, intérêts, redevances ou gains en capital a effectivement un lien avec l'établissement stable que le bénéficiaire, résident d'un Etat contractant, a dans l'autre Etat contractant. Elle ne comprend pas les revenus perçus par une personne physique en rémunération de services rendus en tant qu'employé ou dans l'exercice d'une profession indépendante.

(b) Afin de déterminer si des biens ou des droits sont effectivement liés à un établissement stable, les facteurs pris en considération doivent comprendre la question de savoir si les droits ou les biens sont utilisés ou détenus en vue d'être utilisés aux fins des activités industrielles ou commerciales exercées par l'intermédiaire dudit établissement stable, et si les activités exercées par l'intermédiaire dudit établissement stable entrent pour une part importante dans la réalisation du revenu tiré desdits biens ou droits. A cet effet, il convient de s'assurer dûment que lesdits biens ou droits ou ledit revenu ont été comptabilisés dans cet établissement stable.

(5) Lorsque les bénéfices industriels ou commerciaux comprennent des éléments de revenu qui sont visés de manière distincte dans d'autres articles de la présente Convention, les dispositions de ces articles, sauf s'il en est prévu autrement dans ceux-ci, remplacent les dispositions du présent article.

Article 8

NAVIGATION MARITIME OU AERIENNE

(1) Nonobstant les dispositions de l'Article 7 (Bénéfices des entreprises) et de l'Article 13 (Gains en capital), les revenus qu'un résident d'un Etat contractant tire de l'exploitation, en trafic international, de navires immatriculés dans cet Etat contractant et les gains qu'un résident d'un Etat contractant tire de la vente, de l'échange ou de toute autre forme d'aliénation de navires exploités en trafic international par ce résident et immatriculés dans cet Etat contractant, sont exemptés d'impôt par l'autre Etat contractant.

(2) Nonobstant les dispositions de l'Article 7 (bénéfices des entreprises) et de l'Article 13 (Gains en capital), les revenus qu'un résident d'un Etat contractant tire de l'exploitation, en trafic international, d'aéronefs immatriculés dans un Etat contractant ou dans un Etat avec lequel l'autre Etat contractant a conclu en matière d'impôts sur le revenu une convention en vertu de laquelle de tels revenus sont exemptés

d'impôts, et les gains qu'un résident d'un Etat contractant tire de la vente, de l'échange ou de toute autre forme d'aliénation d'aéronefs exploités en trafic international par ce résident et immatriculés dans un des Etats contractants ou dans un Etat avec lequel l'autre Etat contractant a conclu une convention en vertu delaquelle de tels revenus et gains sont exemptés d'impôt, sont exemptés d'impôt dans l'autre Etat contractant.

Article 9

PERSONNES ASSOCIEES

(1) Lorsqu'un résident d'un Etat contractant et un résident de l'autre Etat contractant sont liés et que ces personnes liées concluent entre elles des arrangements ou s'imposent des conditions qui diffèrent de ceux qui seraient admis entre des personnes indépendantes, les revenus, déductions, crédits ou abattements, quels qu'ils soient, qui sans ces arrangements ou conditions, auraient été pris en considération dans le calcul du revenu reçu (ou de la perte subie) par une de ces personnes, ou de l'impôt dont elle est passible, peuvent être pris en considération dans le calcul du montant du revenu imposable et des impôts dont ladite personne est passible.

(2) Une personne est liée à une autre personne si une de ces personnes possède ou contrôle, directement ou indirectement, l'autre personne ou si une ou plusieurs tierces personnes possèdent ou contrôlent, directement ou indirectement, ces deux personnes. A cette fin, le terme "contrôle" comporte tout contrôle quel qu'il soit, qu'il soit applicable légalement ou non, et quels que soient les moyens par lesquels il s'exerce

ou puisse s'exercer.

Article 10

DIVIDENDES

(1) Les dividendes provenant de sources situées dans un Etat contractant et perçus par un résident de l'autre Etat contractant sont imposables dans les deux Etats.

(2) Les dividendes provenant de sources situées sur le territoire d'un Etat contractant et perçus par un résident de l'autre Etat contractant peuvent être imposés dans le premier Etat, mais l'impôt établi à raison de ces dividendes ne peut excéder :

(a) 15 pour cent du montant effectivement distribué, ou

(b) lorsque le bénéficiaire est une société, 10 pour cent du montant effectivement distribué, si :

(i) la société bénéficiaire a détenu au cours de la partie de l'année d'imposition de la société distributrice précédant la date de paiement des dividendes et au cours de la totalité de la précédente année d'imposition (le cas échéant) au moins 10 pour cent des actions avec droit de vote de la société distributrice, et

(ii) au cours de la précédente année d'imposition de la société distributrice (le cas échéant) le revenu brut de ladite société n'a pas été constitué à concurrence de plus de 25 pour cent de son montant d'intérêts ou de dividendes (autres que les intérêts afférents à des activités bancaires ou financières, ou d'opérations d'assurance, et que les intérêts ou dividendes reçus de filiales dont au moins 50 pour cent des actions libérées avec droit de vote était détenu par la société distributrice au moment où ces dividendes ou intérêts ont été perçus).

(3) Le paragraphe (2) ne s'applique pas si le bénéficiaire des dividendes, résident d'un Etat contractant, a dans l'autre Etat contractant un établissement stable auquel se rattachent effectivement les actions ou parts à raison desquelles les dividendes sont attribués. Dans ce cas, le paragraphe (4) (a) de l'Article 7 (Bénéfices des entreprises) est applicable.

(4) Les dividendes attribués par une société d'un Etat contractant à une personne autre qu'un résident de l'autre Etat contractant (et, dans le cas de dividendes attribués par une société marocaine; à une personne autre qu'un ressortissant des Etats Unis) sont exemptés d'impôt par cet autre Etat contractant. Le présent paragraphe ne s'applique pas si

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le bénéficiaire des dividendes a dans cet autre Etat contractant un établissement stable auquel se rattachent effectivement les actions ou parts à raison desquelles les dividendes sont attribués.

Article 11

INTERETS

(1) Les intérêts tirés de sources situées dans un Etat contractant par un résident de l'autre Etat contractant peuvent être imposés dans les deux Etats contractants.

(2) Le taux de l'impôt perçu par un Etat contractant sur les intérêts tirés de sources situées dans cet Etat contractant par un résident de l'autre Etat contractant ne peut excéder 15 pour cent.

(3) Les paragraphes (1) et (2) du présent Article ne s'appliquent pas si le bénéficiaire des intérêts, résident d'un Etat contractant, a dans l'autre Etat contractant un établissement stable auquel se rattache effectivement la créance génératrice des intérêts. Dans ce cas, les dispositions de l'Article 7 (Bénéfices des entreprises) sont applicables.

(4) Le terme "intérêts" employé dans le présent Article désigne les revenus des fonds publics, des obligations d'emprunts assorties ou non de garanties hypothécaires ou d'une clause de participation aux bénéfices, et de créances de toute

nature, ainsi que tous autres produits assimilés aux revenus de sommes prêtées par la législation fiscale de l'Etat où les revenus ont leur source.

(5) Si par suite de relations spéciales existant entre le débiteur et le créancier ou que l'un et l'autre entretiennent avec de tierces personnes, le montant des intérêts payés, eu égard à la créance pour laquelle ils sont versés, excède celui dont seraient convenus le débiteur et le créancier en l'absence de pareilles relations, les dispositions du présent article ne s'appliquent qu'à ce dernier montant. En ce cas, la partie excédentaire des paiements reste imposable conformément à la législation de chaque Etat contractant et compte tenu des autres dispositions de la présente Convention.

(6) Sont exonérés dans l'Etat où ils ont leur source, les intérêts reçus par l'autre Etat ou un établissement public de cet autre Etat non soumis à l'impôt sur le revenu dans ledit Etat.

Article 12

REDEVANCES

(1) Les redevances tirées de sources situées dans un Etat contractant par un résident de l'autre Etat contractant peuvent être imposées dans les deux Etats contractants.

(2) Le taux de l'impôt perçu par un Etat contractant sur les redevances tirées de sources situées dans cet Etat contractant par un résident de l'autre Etat contractant ne devra pas dépasser 10 pour cent.

(3) Le terme "redevances" employé dans le présent Article désigne :

(a) Les rémunérations de toute nature payées pour l'usage ou la concession de l'usage de droits d'auteur sur des oeuvres littéraires, artistiques, ou scientifiques, les droits d'auteur afférents à des films cinématographiques ou à des films ou bandes de radiodiffusion ou de télévision, brevets, dessins, modèles, plans, formules ou procédés secrets, marques de fabrique ou d'autres biens ou droits analogues, ou de connaissances, d'expérience, ou de savoir-faire (know-how), y compris celles payées pour la prestation d'assistance technique accessoire pour l'utilisation desdits biens ou droits dans la mesure où ladite prestation d'assistance a lieu dans l'Etat contractant où les rémunérations pour l'usage des biens ou droits ont leur source.

(b) Les gains provenant de la vente, de l'échange, ou d'une autre forme d'aliénation de tels

biens ou droits, dans la mesure où les montants reçus pour cette vente, cet échange, ou cette autre forme d'aliénation sont déterminés en fonction de la productivité, de l'utilisation ou de l'aliénation desdits biens ou droits, et

(c) les rémunérations pour des études techniques ou économiques payées sur des fonds publics du gouvernement marocain dans l'exercice de fonctions de nature gouvernementale par le gouvernement marocain ou par l'une de ses subdivisions politiques ou collectivités locales.

(4) Le paragraphe (2) ne s'applique pas lorsque le bénéficiaire des redevances, résident d'un Etat contractant, a dans l'autre Etat contractant un établissement stable auquel se rattache effectivement le bien ou le droit générateur des redevances. Dans ce cas, les dispositions du paragraphe (4), alinéa (a) de l'Article 7 (Bénéfices des Entreprises) sont applicables.

(5) Lorsque des redevances attribuées par une personne à une personne qui lui est liée excèdent le montant qui aurait été attribué à une personne non liée, les dispositions du présent Article ne s'appliquent qu'au montant des redevances qui aurait été attribué à une personne non liée. Dans ce cas, la partie excédentaire peut être imposée par chaque Etat contractant conformément à sa législation, y compris les dispositions de la présente Convention lorsqu'elles sont applicables.

Article 13

GAINS DE CAPITAL

(1) Un résident d'un Etat contractant n'est imposable que dans cet Etat à raison des gains provenant de la vente ou de l'échange de biens de capital.

(2) Le paragraphe (1) du présent Article ne s'applique pas :

(a) si le gain perçu par un résident d'un Etat contractant provient de la vente ou de l'échange de biens visés à l'Article 6 (Revenus immobiliers) situés sur le territoire de l'autre Etat contractant ou de la vente ou de l'échange d'actions ou de parts d'une nature comparable d'une société immobilière ou d'une société dont l'actif est constitué essentiellement par des biens immobiliers;

(b) si le bénéficiaire du gain, résident d'un Etat contractant, a, dans l'autre Etat contractant, un établissement stable auquel se rattache effectivement le bien générateur du gain;

(c) ou si le bénéficiaire du gain, personne physique résidente d'un Etat contractant :

(i) dispose dans l'autre Etat contractant d'une base fixe à laquelle le bien générateur du gain se rattache effectivement, ou

(ii) séjourne dans l'autre Etat contractant pendant une période ou des périodes excédant au total 183 jours au cours de l'année d'imposition.

(3) Dans le cas des gains visés au paragraphe (2) (b), les dispositions de l'Article 7 s'appliquent.

Article 14

ACTIVITES PERSONNELLES INDEPENDANTES

(1) Les revenus qu'une personne physique résidente d'un Etat contractant tire de l'exécution d'activités personnelles à titre indépendant sont imposables dans cet Etat contractant. Sous réserve des dispositions du paragraphe (2), ces revenus sont exemptés d'impôt dans l'autre Etat contractant.

(2) Les revenus qu'une personne physique résidente d'un Etat contractant tire de l'exécution d'activités personnelles à titre indépendant dans l'autre Etat contractant sont imposables dans cet autre Etat contractant, si :

(a) cette personne séjourne dans cet autre Etat contractant pendant une période ou des périodes atteignant au total au moins 183 jours au cours de l'année d'imposition, ou

(b) cette personne dispose dans cet autre Etat contractant d'une base fixe pendant une période ou des périodes atteignant au total au moins 90 jours au cours de l'année d'imposition, mais seulement dans la mesure où ces revenus sont imputables à ladite base fixe, ou

(c) le montant brut dudit revenu excède 5.000 dollars des Etats Unis ou l'équivalent en dirhams du Maroc.

(3) L'expression "activités indépendantes" désigne toutes les activités -- autres que des activités commerciales, industrielles ou agricoles -- auxquelles se livre indépendamment et pour son propre compte une personne qui reçoit la rémunération ou supporte la perte provenant de ces activités.

Article 15

ACTIVITES PERSONNELLES DEPENDANTES

(1) Les salaires, traitements et rémunérations similaires qu'une personne physique résidente d'un Etat contractant tire du travail ou des activités personnelles qu'elle accomplit dans le cadre d'un emploi salarié sont imposables dans cet Etat contractant, nonobstant les dispositions de l'Article 18 (Etudiants et stagiaires) et de l'Article 17 (Fonctions publiques). Sous réserve des dispositions du paragraphe (2), les rémunérations ayant leur source dans l'autre Etat contractant sont également imposables dans cet autre Etat contractant.

(2) Les rémunérations visées au paragraphe (1), autres que les rétributions pour services rendus par un membre du conseil d'administration d'une société, qui sont perçues par une personne physique résident d'un Etat contractant sont exemptées d'impôt dans l'autre Etat contractant si :

(a) cette personne séjourne dans cet autre Etat contractant pendant une période ou des périodes atteignant au total moins de 183 jours au cours de l'année d'imposition;

(b) Cette personne est employée par un résident du premier Etat contractant ou par un établissement stable exploité dans cet Etat contractant par un résident d'un Etat autre que cet Etat contractant;

(c) La charge des rémunérations n'est pas supportée par un établissement stable ou une base fixe que l'employeur a dans l'autre Etat contractant.

(3) Nonobstant les dispositions du paragraphe (2), les rémunérations tirées par une personne physique du travail ou des activités personnelles qu'elle accomplit dans le cadre d'un emploi salarié, à bord de navires ou d'aéronefs exploités en trafic international par un résident d'un Etat contractant sont exemptées d'impôt dans l'autre Etat contractant si cette personne est un membre de l'équipage régulier du navire ou de l'aéronef.

Article 16

ARTISTES ET SPORTIFS

(1) Nonobstant les dispositions des Articles 14 (Activités personnelles indépendantes) et 15 (Activités personnelles dépendantes), les revenus que les professionnels du spectacle, tels les artistes de théatre, de cinéma, de la radio ou de la télévision et les musiciens, ainsi que les sportifs retirent de leurs activités personnelles en cette qualité, sont imposables dans l'Etat contractant où ces activités sont exercées.

(2) Lorsque le revenu d'activités exercées personnellement par un artiste ou un sportif est attribué à une autre personne que l'artiste ou le sportif lui-même, ce revenu peut, nonobstant les dispositions des Articles 7 (Bénéfices des entreprises), 14 (Activités personnelles indépendantes) et 15 (Activités personnelles dépendantes) être imposé dans l'Etat contractant où sont exercées les activités de l'artiste ou du sportif.

(3) Les dispositions du paragraphe (1) ne s'appliquent pas aux revenus d'activités exercées dans un Etat contractant par des organismes sans but lucratif de l'autre Etat contractant ou par des membres de leur personnel, sauf si ces derniers agissent pour leur propre compte.

Article 17

FONCTIONS PUBLIQUES

Les salaires, traitements et rémunérations similaires, y compris les pensions ou prestations analogues versés par un Etat

contractant, soit directement soit par prélèvement sur des fonds qu'ils ont constitués, à un ressortissant de cet Etat contractant au titre de travail fourni ou de services rendus à cet Etat contractant, à l'une de ses subdivisions politiques ou à l'un de ses organismes locaux, dans l'exercice de fonctions publiques sont exemptés d'impôt dans l'autre Etat contractant.

Article 18

ETUDIANTS ET STAGIAIRES

(1) (a) Une personne physique qui est un résident d'un Etat contractant au début de son séjour temporaire dans l'autre Etat contractant et qui séjourne temporairement dans cet autre Etat contractant dans le but principal :

(i) d'étudier dans une université ou dans un autre établissement officiellement reconnu situé dans cet autre Etat contractant ou

(ii) d'effectuer un stage destiné à lui donner la formation nécessaire à l'exercice d'une profession ou d'une spécialité professionnelle, ou

(iii) d'étudier ou de s'adonner à la recherche en tant que bénéficiaire d'une bourse, d'une allocation ou d'un prix reçu d'un

établissement à caractère gouvernemental, religieux, philanthropique, scientifique, littéraire ou éducatif,

est exemptée d'impôt dans cet autre Etat contractant, pour une période ne dépassant pas cinq années d'imposition à compter de la date de son arrivée dans cet autre Etat contractant, à raison des sommes visées à l'alinéa (b).

(b) Les sommes auxquelles se réfère l'alinéa (a) sont constituées par :

(i) les subsides reçus de l'étranger en vue de l'entretien, de l'éducation, des études, des recherches ou de la formation du bénéficiaire,

(ii) la bourse, l'allocation ou le prix, et

(iii) les revenus provenant des services personnels accomplis dans cet autre Etat contractant et n'excédant pas un montant de 2.000 dollars des Etats Unis ou son équivalent en dirhams marocains au cours de l'année d'imposition.

Article 19

PENSIONS ET RENTES PRIVEES

(1) Sous réserve des dispositions de l'Article 17 (Fonctions Publiques) les pensions et autres rémunérations similaires

versées à une personne physique résidente d'un Etat contractant au titre d'un emploi antérieur, ne sont imposables que dans cet Etat contractant.

(2) Les pensions alimentaires versées en cas de divorce et les rentes payées à une personne physique résidente d'un Etat contractant ne sont imposables que dans cet Etat contractant.

(3) L'expression "pensions et autres rémunérations similaires" employée dans le présent Article désigne les paiements périodiques effectués après la retraite ou le décès en raison d'un emploi antérieur ou à titre de compensation de dommages subis dans le cadre de cet emploi antérieur.

(4) L'expression "rentes" employée dans le présent Article désigne une somme déterminée payée périodiquement à échéances fixes durant la vie ou durant un nombre d'années déterminé, en vertu d'un engagement d'effectuer les paiements en échange d'une pleine et adéquate contre-valeur (autre que pour des services rendus).

(5) L'expression "pensions alimentaires" employée dans le présent Article désigne des paiements périodiques effectués à la suite d'un arrêt de divorce, d'une séparation amiable, ou d'un accord de subsistance ou de séparation de corps, qui sont passibles d'un impôt payable par le bénéficiaire en vertu de la législation intérieure de l'Etat contractant dont il est résident.

Article 20

REGLES GENERALES D'IMPOSITION

(1) Tout résident de l'un des Etats contractants est imposable par l'autre Etat contractant sur tout revenu provenant de sources situées dans cet autre Etat contractant et seulement sur ledit revenu, sous réserve de toutes limitations prévues par la présente Convention. A cet effet, les règles énoncées à l'Article 5 (Source du revenu) sont applicables pour déterminer la source du revenu.

(2) Les dispositions de la présente Convention ne peuvent être interprétées comme réduisant d'une manière quelconque les exclusions, exonérations, abattements, crédits ou autres déductions qui sont ou seront accordées :

(a) par la législation d'un Etat contractant pour la détermination de l'impôt prélevé par cet Etat, ou

(b) par tout autre accord intervenu entre les Etats contractants.

(3) Nonobstant toutes dispositions de la présente Convention autres que celles du paragraphe (4), un Etat contractant peut imposer un ressortissant ou résident dudit Etat contractant comme si la présente Convention n'existait pas.

(4) Les dispositions du paragraphe (3) n'affectent pas :

(a) les avantages accordés par un Etat contractant en vertu des Articles 21 (Prévention de la double imposition), 22 (Non-discrimination) et 25 (Procédure amiable); et

(b) les avantages accordés par un Etat contractant en vertu des Articles 18 (Etudiants et stagiaires) et 17 (Fonctions publiques) à des personnes physiques qui ne sont pas ressortissantes de cet Etat contractant et qui n'y ont pas le statut d'immigrant.

(5) Les Etats Unis peuvent percevoir l'impôt personnel sur les sociétés holding et l'impôt sur les bénéfices laissés à la disposition des sociétés comme si la présente Convention n'existait pas. Toutefois :

(a) Une société marocaine est exonérée aux Etats Unis de l'impôt sur les sociétés holding personnelles (personal holding company tax) pour toute année d'imposition si toutes les actions de ladite société ont été détenues pendant la totalité de l'année d'imposition par une ou plusieurs personnes physiques résidentes du Maroc agissant en leur propre qualité.

(b) Une société marocaine est exonérée de l'impôt américain sur les bénéfices laissés à la disposition des sociétés pour toute année d'imposition à moins qu'elle n'ait exercé son activité aux Etats Unis par l'intermédiaire d'un établissement stable à un moment quelconque pendant ladite année.

(6) Les autorités compétentes des deux Etats contractants peuvent établir les règles nécessaires pour l'exécution des dispositions de la présente Convention.

(7) Lorsque, conformément à l'une quelconque des dispositions de la présente Convention, un Etat contractant diminue le taux de l'impôt ou applique une exemption sur le revenu d'un résident de l'autre Etat contractant, et si, en vertu de la législation en vigueur dans cet autre Etat contractant, le résident n'est imposable par cet autre Etat contractant que sur la partie dudit revenu qui est versée à cet autre Etat contractant ou reçue dans le dit Etat contractant, la diminution ou l'exemption ne s'applique qu'au montant dudit revenu qui est versé à cet autre Etat contractant ou reçu dans ledit Etat contractant.

Article 21

PREVENTION DE LA DOUBLE IMPOSITION

La double imposition des revenus est évitée de la manière suivante :

(1) Les ressortissants ou résidents des Etats Unis sont autorisés à déduire de l'impôt des Etats Unis prévu au paragraphe (1) (a) de l'Article 1, le montant approprié des impôts sur le revenu qu'ils ont acquittés au Maroc. Ce montant est basé sur l'impôt marocain qui a été acquitté mais ne peut excéder la fraction de l'impôt des Etats Unis correspondant au rapport existant entre le revenu net de source marocaine desdits ressortissants ou résidents et la totalité de leur revenu net pour la même année d'imposition.

(2) Dans le calcul du montant approprié de l'impôt payé au Maroc, les citoyens ou résidents des Etats Unis qui reçoivent un revenu ou des dividendes du Maroc, peuvent opter pour inclure dans le calcul de l'impôt marocain aux fins du paragraphe (1) le montant qu'ils sont tenus d'investir en bons d'équipement marocains aux termes de l'Article 37 du Décret Royal no. 1-010-65 du 8 Ramadan 1385 (31 Décembre 1965) portant Loi de Finances pour l'année 1966, et ce, conformément aux règlements établis par le Secrétaire d'Etat au Trésor des Etats Unis ou son représentant, étant entendu que les citoyens ou résidents des Etats Unis conviennent que tout remboursement par le Gouvernement marocain de ces bons sera traité, aux fins du présent Article, comme remboursement de l'impôt marocain pour l'année du dit remboursement.

(3) Les ressortissants ou résidents du Maroc sont autorisés à déduire de l'impôt du Maroc prévu au paragraphe (1) (b) de l'Article 1, le montant approprié des impôts sur le revenu qu'ils ont acquittés aux Etats Unis. Ce montant est basé sur l'impôt américain qui a été acquitté mais ne peut excéder la fraction de l'impôt du Maroc correspondant au rapport existant entre le revenu net de source américaine desdits ressortissants ou résidents et la totalité de leur revenu net pour la même année d'imposition.

Article 22

NON-DISCRIMINATION

(1) Un ressortissant d'un Etat contractant qui est résident de l'autre Etat contractant n'est pas soumis dans cet autre Etat contractant à des impôts plus lourds que ceux que supporte un ressortissant de cet autre Etat contractant qui est un résident dudit Etat.

(2) Un établissement stable qu'un résident d'un Etat contractant a dans l'autre Etat contractant n'est pas soumis dans cet autre Etat contractant à des impôts plus lourds que ceux que supporte un résident de cet autre Etat contractant exerçant la même activité. Ce paragraphe ne peut être interprété comme obligeant un Etat contractant à accorder aux personnes physiques résidentes de l'autre Etat contractant les déductions personnelles, abattements et réductions d'impôt en fonction de la situation ou des charges de famille qu'il accorde à ses propres résidents.

(3) Une société d'un Etat contractant, dont le capital est, en totalité ou en partie, directement ou indirectement, détenu ou contrôlé par un ou plusieurs résidents de l'autre Etat contractant, n'est soumise dans le premier Etat contractant à aucune imposition ou obligation y relative qui est autre ou plus lourde que celle à laquelle est ou peut être assujettie une société du premier Etat contractant exerçant la même activité et dont le capital est en totalité détenu ou contrôlé par un ou plusieurs résidents de ce premier Etat contractant.

Article 23

FONCTIONNAIRES DIPLOMATIQUES ET CONSULAIRES

Les dispositions de la présente Convention ne portent pas atteinte aux privilèges fiscaux dont bénéficient les fonctionnaires diplomatiques et consulaires en vertu soit des règles générales du droit international, soit des dispositions d'accords particuliers.

Article 24

SOCIETES D'INVESTISSEMENT OU HOLDING

Une société d'un Etat contractant recevant des dividendes, intérêts, redevances ou gains en capital de sources situées dans l'autre Etat contractant n'est pas admise au bénéfice des dispositions des Articles 10 (Dividendes), 11 (Intérêts), 12 (Redevances) ou 13 (Gains en capital) :

(a) si, du fait de mesures spéciales l'impôt appliqué à ladite société par le premier Etat contractant en ce qui concerne ces dividendes, intérêts, redevances ou gains en capital est sensiblement inférieur à l'impôt généralement appliqué dans ledit Etat contractant sur les bénéfices des entreprises, et

(b) si vingt cinq pour cent au moins du capital de ladite société est porté en compte, ou s'il est déterminé autrement après consultation entre les autorités compétentes des Etats contractants, que ledit pourcentage appartient directement ou indirectement à une ou plusieurs personnes qui ne sont pas des personnes physiques résidentes du premier Etat contractant (ou, dans le cas d'une société marocaine, qui sont des ressortissants des Etats Unis).

Article 25

PROCEDURE AMIABLE

(1) Lorsqu'un résident d'un Etat contractant estime que les mesures prises par un Etat contractant ou par les deux Etats contractants entraîneront pour lui une imposition non conforme à la présente Convention, il peut, indépendamment des recours prévus par la législation nationale des Etats contractants, soumettre son cas à l'autorité compétente de l'Etat contractant dont il est résident. Si la demande du résident est considérée comme bien fondée par l'autorité compétente à qui elle a été adressée, cette autorité compétente s'efforce de parvenir à un accord avec l'autorité compétente de l'autre Etat contractant en vue d'éviter une imposition contraire aux dispositions de la présente Convention.

(2) Les autorités compétentes des Etats contractants s'efforcent, par voie d'accord amiable, de résoudre les difficultés ou de dissiper les doutes auxquels peut donner lieu l'application de la présente Convention. Les autorités compétentes des Etats contractants peuvent s'entendre en particulier :

(a) pour parvenir à une imputation identique des bénéfices industriels ou commerciaux revenant à un résident d'un Etat contractant et à son établissement stable situé dans l'autre Etat contractant;

(b) pour parvenir à une attribution identique des revenus, charges, imputations ou déductions revenant à un résident d'un Etat contractant et à toute personne à laquelle il est lié; ou

(c) pour parvenir à une détermination identique de la source de certains éléments du revenu;

(d) pour parvenir à la même signification pour tout terme employé dans ladite Convention.

(3) Les autorités compétentes des Etats contractants peuvent communiquer directement entre elles en vue de parvenir à un accord comme il est indiqué au présent Article. Lorsque cela leur semble opportun pour parvenir à un accord, les autorités compétentes peuvent se rencontrer aux fins d'échanges de vues oraux.

(4) Lorsque les autorités compétentes parviennent à un tel accord, les Etats contractants établissent les impositions sur ces revenus et octroient le remboursement ou l'imputation des impôts conformément à cet accord.

Article 26

ECHANGE DE RENSEIGNEMENTS

(1) Les autorités compétentes des Etats contractants échangent les renseignements nécessaires pour l'application des dispositions de la présente Convention et de la législation intérieure des Etats contractants en ce qui concerne les impôts qui font l'objet de cette Convention. Tout renseignement ainsi échangé doit être tenu secret et ne peut être communiqué qu'aux personnes (y compris les tribunaux et les organismes administratifs) chargés de l'établissement, de la perception ou du recouvrement des impôts qui font l'objet de la présente Convention ainsi que des poursuites y afférentes.

(2) Les dispositions du paragraphe (1) ne peuvent en aucun cas être interprétées comme imposant à l'un des Etats contractants l'obligation :

(a) de prendre des dispositions administratives dérogeant à sa propre législation ou à sa pratique administrative ou à celles de l'autre Etat contractant;

(b) de fournir des renseignements qui ne pourraient être obtenus sur la base de sa propre législation ou dans le cadre de sa pratique administrative normale ou de celles de l'autre Etat contractant, ou

(c) de transmettre des renseignements qui révèleraient un secret commercial, industriel, professionnel ou un procédé commercial, ou des renseignements dont la communication serait contraire à l'ordre public.

(3) L'échange de renseignements sera effectué soit d'office, soit sur demande en ce qui concerne des cas concrets. Les autorités compétentes des Etats contractants peuvent établir d'un commun accord la liste des renseignements qui seront communiqués d'office.

(4) Les autorités compétentes des Etats contractants s'aviseront mutuellement de toutes modifications apportées à la législation fiscale visée au paragraphe (1) de l'Article 1 (Impôts visés) et de l'adoption de tous impôts visés au paragraphe (2)

dudit article en se transmettant le texte de toutes les modifications ou mesures nouvelles au moins une fois par an.

(5) Les autorités compétentes des Etats contractants s'aviseront mutuellement de la publication par leurs Etats contractants respectifs de tous documents concernant l'application de la présente Convention qu'il s'agisse de réglements, d'ordonnances ou de décisions judiciaires en se transmettant le texte de tous ces documents au moins une fois par an.

Article 27

EXTENSION TERRITORIALE

(1) L'un ou l'autre Etat contractant peut, à tout moment, pendant que la présente Convention demeurera en vigueur, par une notification écrite transmise à l'autre Etat contractant par la voie diplomatique, manifester son désir d'étendre l'application de la présente Convention, en tout ou en partie ou avec toutes modifications jugées spécialement nécessaires au cas particulier, à tout ou partie des territoires (auxquels la présente Convention ne s'applique pas autrement) dont il assume les relations internationales et qui perçoivent des impôts d'un caractère analogue en substance à ceux qui font l'objet de la présente Convention. Lorsque l'autre Etat contractant aura, par une communication écrite transmise par la voie diplomatique, signifié au premier Etat contractant l'acceptation de cette notification pour ce territoire ou ces territoires et que la notification et la communication auront été ratifiées et les instruments de ratification échangés, la présente Convention en tout ou en partie, ou avec les modifications jugées

spécialement nécessaires au cas particulier, comme spécifié dans la notification, sera applicable à ce territoire ou à ces territoires, et elle entrera en vigueur et produira ses effets à partir de la date ou des dates y spécifiées. Aucune des dispositions de la présente Convention ne pourra s'appliquer à l'un quelconque de ces territoires en l'absence d'une telle acceptation et d'un échange d'instruments de ratification en ce qui concerne ledit territoire.

(2) A tout moment après la date d'entrée en vigueur d'une extension prévue au paragraphe (1), chacun des Etats contractants pourra, moyennant un préavis de six mois donné à l'autre Etat contractant par la voie diplomatique, mettre fin à l'application de la présente Convention à l'un quelconque des territoires auxquels elle aura été étendue en vertu du paragraphe (1); dans cette éventualité, la présente Convention cessera de s'appliquer et de produire ses effets en ce qui concerne les territoires mentionnés dans le préavis, à partir du 1er Janvier suivant l'expiration du délai de six mois, sans toutefois qu'en soit affectée l'application continue de la Convention aux Etats Unis, au Maroc ou à tout autre territoire auquel elle aura été étendue en vertu du paragraphe (1).

(3) Pour l'application de la présente Convention à un territoire auquel elle a été étendue par suite d'une notification des Etats Unis ou du Maroc, le terme "Etats Unis" ou "Maroc", selon le cas, sera censé comprendre ledit territoire.

(4) A moins que les deux Etats contractants n'en soient expressément convenus autrement, lorsque la Convention sera dénoncée soit par les Etats-Unis, soit par le Maroc conformément à l'Article 29 (Dénonciation), elle cessera de s'appliquer à tout territoire auquel elle aura été étendue en vertu du présent Article par les Etats-Unis ou le Maroc.

Article 28

ENTREE EN VIGUEUR

(1) La présente Convention sera ratifiée; les instruments de ratification seront échangés aussitôt que possible à Washington.

(2) La présente Convention entrera en vigueur dès l'échange des instruments de ratification et elle s'appliquera :

1o aux impôts dûs à la source sur les revenus attribués ou mis en paiement à partir du premier jour du mois suivant celui de l'échange des instruments de ratification;

2o pour les autres impôts sur le revenu aux années d'imposition commençant à compter du 1er janvier de l'année de ratification.

Article 29

DENONCIATION

La présente Convention restera indéfiniment en vigueur; mais chaque Etat contractant pourra, avant le 30 juin de toute année civile à partir de la cinquième année à dater de celle de la rati-

fication de la Convention, la dénoncer, en notifiant cette dénonciation par écrit et par la voie diplomatique, à l'autre Etat contractant. En cas de dénonciation avant le 1er juillet d'une telle année, la Convention s'appliquera pour la dernière fois;

(1) aux impôts à la source sur les revenus attribués ou mis en paiement au plus tard le 31 décembre de l'année de la dénonciation;

(2) aux autres impôts établis sur des revenus de périodes imposables prenant fin au plus tard le 31 décembre de la même année.

FAIT en triple exemplaire, en langues anglaise, arabe et française, les trois textes faisant également foi,
ce premier jour de août 1977.

POUR LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE

Robert Anderson
Ambassadeur des Etats-Unis d'Amérique

POUR LE GOUVERNEMENT DU ROYAUME DU MAROC

Abdelkader Benslimane
Ministre des Finances

ب/ على سنوات فرض الضريبة التي تبتدئ من فاتح يناير 1977 فيما يخص الضرائب المفروضة على الدخل.

الفصل التاسع والعشـــرون

فســـخ الاتفاقيـــة

يبقى العمل جاريا بهذه الاتفاقية دون تحديد في المدة . غير انه يجوز لكل دولة متعاقدة ان تعلن عن فسخها كتابة بواسطة الطريق الدبلوماسية الى الدولة المتعاقدة الاخرى الى غاية 30 يونيو من كل سنة مدنية ابتداء من السنة الخامسة التي تمت خلالها المصادقة عليها . وفي حالة فسخ قبل فاتح يوليوز من سنة ما تطبق الاتفاقية للمرة الاخيرة

1) على الضرائب المفروضة في المصدر على المداخيل المخصصة او المأمور باداءها يوم 31 دجنبر من سنة الفسخ على ابعد تقديـــــر،

2) على الضرائب الاخرى المفروضة على مداخيـــل الفترات الخاضعة للضريبة التي تنتهي يوم 31 دجنبر من نفس السنة على ابعد تقدير .

وحـــرر بتاريـــــخ 15 شعبان سنة 1397
موافق فاتح غشت 1977

في نظيرين باللغات الانجليزيـــة والعربية والفرنسية يعتمد على نصوصها كلها

عن حكومة الولايات المتحدة الامريكية

روبيرت اندرسون

سفيـــر الولايات المتحدة الامريكية

عن حكومة المملكة المغربية

عبد القادر بنسليمان

وزيـــر الماليـــــة

2) كل دولة من الدولتين المتعاقدتين يمكنها في كل وقت وآن بعد التاريخ الذي يدخل فيه في حيز التطبيق التمديد المنصوص عليه في الفقرة (1) انهاء تطبيق هذه الاتفاقية على احد البلدان الذي تم تمديدها اليه بموجب الفقرة الاولى بعد سابق اعلام لمدة ستة اشهر يوجه الى الدولة المتعاقدة الاخرى على الطريق الديبلوماسية. وينتهي في هذه الحالة تطبيق هذه الاتفاقية والعمل بها بالنسبة للبلدان المبينة في سابق الاعلام ابتداء من فاتح يناير الموالي لانصرام اجل ستة اشهر بدون ان يكون ذلك مساس بتطبيق الاتفاقية على الولايات المتحدة او المغرب او اي بلد آخر يكون قد تم تمديدها اليه بناء على الفقرة الاولى.

3) لاجل تطبيق هذه الاتفاقية على بلد وقع تمديدها اليه على اثر تبليغ من الولايات المتحدة او المغرب فان لفظة " الولايات المتحدة" او "المغرب" تشمل حسب الحالة البلد المذكور.

4) ينتهي تطبيق الاتفاقية على كل بلد يكون قد تم تمديدها اليه بناء على هذا الفصل من طرف الولايات المتحدة أو المغرب اذا انسحب منها احدهما طبقا للفصل 29 (فسخ الاتفاقية) مالم تتفق الدولتان المتعاقدتان على خلاف ذلك.

الفصل الثامن والعشرون

العمل بالاتفاقية

1) يصادق على هذه الاتفاقية ويتم تبادل وثائق المصادقة في اقرب وقت ممكن.

2) تدخل هذه الاتفاقية في حيز التطبيق بمجرد تبادل وثائق المصادقة عليها وتصبح مقتضياتها مطبقة:

أ / على الضرائب المفروضة في المصدر على المداخيل المخصصة او المأمور باداءها ابتداء من اليوم الاول من الشهر الموالي لشهر تبادل وثائق المصادقة.

5) تخبر السلطات المختصة في الدولتين المتعاقدتين بعضها بعض بنشر دولتيها المتعاقدتين جميع الوثائق المتعلقة بتطبيق هذه الاتفاقية سواء كان الامر يتعلق بأنظمة أو اوامر أواحكام قضائية مع تبليغ بعضها الى الاخرى نص جميع هذه الوثائق مرة واحدة في السنة على الاقل ،

الفصل السابع والعشرون

الامتداد الترابي

(1) كل دولة من الدولتين المتعاقدتين يمكنها في كل وقت وآن طيلة المدة التي يبقى فيها العمل جاريا بهذه الاتفاقية وبواسطة تبليغ كتابي يوجه الى الدولة المتعاقدة الاخرى على الطريق الدبلوماسية ان تبدى رغبتها في تمديد تطبيق هذه الاتفاقية كلا او بعضا او مع جميع التعديلات التي تراها ضرورية في بعض الحالات الخاصة الى جميع او بعض البلدان (غير المطبقة عليها هذه الاتفاقية بطريقة اخرى) التي تتكفل بعلاقاتها الدولية (والتي تحصل على ضرائب مماثلة للضرائب المشار اليها في هذه الاتفاقية . واذا اخبرت الدولة المتعاقدة الاخرى الدولة الاولى المتعاقدة بواسطة رسالة كتابية على الطريق الدبلوماسية بقبولها لهذا التبليغ المتعلق بالبلد او البلدان المذكورة واذا تمت المصادقة على التبليغ والرسالة وتم تبادل وثائق المصادقة فان هذه الاتفاقية تطبق على البلد او البلدان المذكورة كلا او بعضا او مع جميع التعديلات التي تراها ضرورية في بعض الحالات الخاصة حسبما هو منصوص عليه في التبليغ و تدخل في حيز التطبيق ويعمل بها ابتداء من التاريخ او التواريخ المحددة فيه . ولا يمكن تطبيق اي مقتضى من مقتضيات هذه الاتفاقية على احد هذه البلدان مالم يكن هناك قبول وتبادل لوثائق المصادقة فيما يخص البلد المذكور ،

الفصل السادس والعشرون

تبادل المعلومات

1) تتبادل السلطات المختصة التابعة للدولتين المتعاقدتين المعلومات الضرورية لتطبيق مقتضيات هذه الاتفاقية ومقتضيات التشريع الداخلي للدولتين المتعاقدتين المتعلقة بالضرائب المشار اليها في هذه الاتفاقية . وتكتسي جميع المعلومات المتبادلة صبغة سرية ولا يجوز تبليغها الا الى الاشخاص (بما في ذلك المحاكم والهيئات الادارية) المكلفين بوضع او قبض او تحصيل الضرائب المشار اليها في هذه الاتفاقية او بالمتابعات المتعلقة بها ،

2) لا يمكن بأي حال من الاحوال تأويل مقتضيات الفقرة الاولى بأنها تلزم احدى الدولتين المتعاقدتين :

أ/ باتخاذ مقتضيات ادارية تكون مخالفة لتشريعها او منهاجها الاداري او لتشريع او منهاج الدولة المتعاقدة الاخرى ،

ب/ بتقديم معلومات قد لا يحصل عليها استنادا الى تشريعها او في نطاق منهاجها الاداري العادي او تشريع او منهاج الدولة المتعاقدة الاخرى .

ج / بتبليغ معلومات قد تكشف على سر تجاري او صناعي او مهني او اسلوب تجاري او معلومات يكون افشاؤها مخالفا للنظام العمومي ،

3) يتم تبادل المعلومات اما بصفة تلقائية واما بناء على طلب فيما يخص حالات معينة . قد يمكن للسلطات المختصة في الدولتين المتعاقدتين ان تضع باتفاق فيما بينها لائحة المعلومات التي يكون تبليغها تلقائيا ،

4) تخبر السلطات المختصة في الدولتين المتعاقدتين بعضها بعضا بجميع التعديلات المدخلة على التشريع الجبائي المشار اليه في الفقرة (1) من الفصل الاول (الضرائب المقصودة) واقرار جميع الضرائب المنصوص عليها في الفقرة (2) من الفصل المذكور مع تبليغ بعضها الى الاخرى نص جميع التعديلات او التدابير الجديدة مرة واحدة في السنة على الاقل ،

واذا ما ثبتت صحة الطلب المقيم لدى السلطة المختصة الموجهة اليها الطلب المذكور قامت ببذل ما في استطاعتها للتوصل الى اتفاق مع السلطة المختصة في الدولة المتعاقدة الاولى تجنبا لفرض كل ضريبة غير مطابقة لمقتضيات هذه الاتفاقية.

2) تسعى السلطات المختصة في الدولتين المتعاقدتين عن طريق اتفاق ودي في تذليل المصاعب او تبديد جميع الشكوك التي قد تترتب عن تطبيق هذه الاتفاقية. ويمكن ان تتفق السلطات المختصة في الدولتين المتعاقدتين بالخصوص على ما يلي :

أ / التوصل الى اقتطاع مماثل للارباح الصناعية أو التجارية الراجعة الى مقيم باحدى الدولتين المتعاقدتين والى مؤسسته القارة الموجودة في الدولة المتعاقدة الأخرى.

ب / التوصل الى تخصيص مماثل للمداخيل او التحملات اولا قتطاعات أو الخصوم الراجعة الى مقيم باحدى الدولتين المتعاقدتين والى كل شخص يكون له ارتباط به.

ج / التوصل الى تحديد مماثل لمصدر بعض عناصر الدخل.

د / التوصل الى معنى مماثل لأى من العبارات المستعملة في هذه الاتفاقية.

3) يمكن للسلطات المختصة في كلتا الدولتين المتعاقدتين التشاور فيما بينهما مباشرة قصد التوصل الى اتفاق حسبما هو مبين في هذا الفصل . ويمكن للسلطات المختصة أن تتصل فيما بينها لتبادل الآراء شفويا اذا رأت ذلك مناسبا قصد التوصل الى اتفاق.

4) اذا توصلت السلطات المختصة الى مثل هذا الاتفاق فان الدولتين المتعاقدتين تقوم بفرض الضرائب على هذه المداخيل وتمنح الارجاعات اوالا قتطاعات الى الضرائب طبقا لهذا الاتفاق.

الفصل الرابع والعشرون

شركات الاستثمار او شركات الشركـــــات

لا تقبل للاستفادة من مقتضيات الفصول 10 (حصص الارباح) أو11 (الفوائد أو 12 (الوجيبات) أو 13 (ارباح رأس المال) . كل شركة تابعة لاحـدى الدولتين المتعاقدتين تحصل على حصص ارباح او فوائـد او وجيبات او ارباح رأس مال متأصلة من الدولة المتعاقدة الاخرى :

أ/ اذا كانت الضريبة المطبقة على الشركة المذكورة من طرف الدولـــة المتعاقدة الاولى فيما يخص حصص الارباح او الفوائد او الوجيبات او ارباح رأس المال المذكورة تقل بكيفيـة محسوسة من جراء تدابير خاصة عن الضريبة المطبقة بصفة عامة على ارباح المقاولات في الدولة المتعاقدة المذكورة ،

ب/ اذا كانت خمسة وعشرون في المائة على الاقل من رأس مال الشركـــة المذكورة داخلة في الحساب او اذا تـم الاتفاق بشكل آخر بعد تشاور بين السلطات المختصة في الدولتين المتعاقدتين على ان يملك النسبة المذكورة بصفة مباشـرة او غير مباشرة من شخص او عدة اشخاص ليسـوا اشخاصا ذاتيين مقيمين في الدولـة المتعاقدة الاولى (او ـ اذا كان الامر يتعلق بشركة مغربيـة ـ يكونون مواطنيـن للولايات المتحدة الامريكيـة)

الفصل الخامس والعشرون

الاجـــــراءات الوديـــــة

(1) اذا ما اعتبر مقيـم في دولة متعاقدة ان التدابير المتخذة من طـــرف احدى الدولتين المتعاقدتين او من طرفهمـا معا تؤدى الى فرض الضريبة عليـــه لا تطابق مقتضيات الاتفاقية جاز له بصرف النظر عن طرق الطعن المنصوص عليهـــا في التشريع الوطني للدولتين المتعاقدتين ان يعرض حالته على السلطة المختصـــة في الدولة المتعاقدة التي يقيم بهـــا ،

الفصل الثاني والعشرون

عـدم المـيـــز

(1) ان مواطني دولة متعاقدة يقيم بالدولة المتعاقدة الاخرى لا تفرض عليه في هذه الدولة المتعاقدة الاخرى ضرائب اكثر عبئا من الضرائب التي يتحملها مواطن لهذه الدولة المتعاقدة الاخرى يقيم في هذه الدولة المذكورة ،

(2) ان مؤسسة قارة يملكها مقيم تابع لدولة متعاقدة في الدولة المتعاقدة الاخرى لا تفرض عليها في هذه الدولة المتعاقدة الاخرى ضرائب اكثر عبئا من الضرائب التي يتحملها مقيم في هذه الدولة المتعاقدة الاخرى يزاول نفس النشاط . ولا يمكن تأويل مقتضيات هذه الفقرة بمثابة اجبار دولة متعاقدة على منح المقيمين من الدولة المتعاقدة الاخرى تخفيضات شخصية أو خصوما او انتقاصات في الضرائب تمنحها للمقيمين المنتمين اليها اعتبارا لوضعيتهم او تكاليفهم العائلية ،

(3) ان شركة احدى الدولتين المتعاقدتين التي يوجد رأسمالها كلا أو بعضا بصفة مباشرة اوغير مباشرة في حوزة او تحت مراقبة مقيم اوعدة مقيمين من الدولة المتعاقدة الاولى لا تفرض عليها بالدولة المتعاقدة الاولى أية ضريبة او التزام متعلق بها يختلف او يكون اكثر عبئا بالنسبة للضريبة التي تفرض او يمكن فرضها على احدى شركات الدولة المتعاقدة الاولى تمارس نفس النشاط ويكون رأس مالها كلا في حوزة او تحت مراقبة مقيم اوعدة مقيمين من هذه الدولة المتعاقدة الاولى ،

الفصل الثالث والعشرون

الموظفون الديبلوماسيون والقنصليـــون

لا تمس مقتضيات هذه الاتفاقية بالامتيازات الجبائية التي يستفيد منها الموظفون الديبلوماسيون والقنصليون عملا بالقواعد العامة للقانون الدولي أو بناء على مقتضيات اوفاق خاصـــة ،

الفصل الواحد والعشرون

الغاء ازدواجية الضرائب

يتم تجنب ازدواجية فرض الضرائب حسب الكيفية الآتية :

1) يؤذن لمواطني الولايات المتحدة المقيمين بها في أن يخصموا من ضريبة الولايات المتحدة المنصوص عليها في الفقرة (أ) من الفصل الاول المبلغ الملائم من الضرائب المفروضة على الدخل الذى أدوه في المغرب. ويقدر هذا المبلغ على أساس الضريبة المغربية التي تم تحديدها ولايمكن أن يتجاوز جزء ضريبة الولايات المتحدة المطابق للنسبة الموجودة بين الدخل الصافي المتأصل من المغرب والمدخول الصافي الاجمالي،

2) ان مواطني الولايات المتحدة المقيمين بها الذين يحصلون أرباحا أو حصص ارباح من المغرب يجوز لهم عند تقدير المبلغ الملائم من الضريبة المؤداة في المغرب أن يدخلوا في حساب الضريبة المغربية تنفيذا لأغراض الفقرة (1) المبلغ الواجب عليهم استثماره في شكل سندات تجهيز مغربية وفقا للفصل 37 من المرسوم الملكي رقم 65/ 1010 الصادر في 8 رمضان 1385 (31 دجنبر 1965) بمثابة قانون المالية عن سنة 1966 وذلك طبقا للأنظمة الموضوعة من طرف كاتب الدولة الامريكي في الخزينة أو ممثله مع العلم ان مواطني الولايات المتحدة والمقيمين بها متفقون على أن كل ارجاع لهذه السندات من طرف الحكومة المغربية يعتبر حسب هذا الفصل بمثابة ارجاع للضريبة المغربية عن سنة الارجاع المذكور،

3) يؤذن لمواطني المغرب والمقيمين به في أن يخصموا من ضريبة المغرب المنصوص عليها في الفقرة (ب) من الفصل الأول المبلغ الملائم من الضرائب المفروضة على الدخل الذى ادوه في الولايات المتحدة. ويقدر هذا المبلغ على أساس الضريبة الامريكية التي تم أداؤها ولا يمكن أن تتجاوز جزء الضريبة المغربية المطابق للنسبة الموجودة بين الدخل الصافي ذى الاصل الامريكي والدخل الصافي الكامل .

ب / تعفى شركة مغربية من الضريبة الامريكية المفروضة على المدخرات المتجمعة ماعدا اذا مارست خلال سنة فرض الضريبة نشاطها في الولايات المتحدة بواسطة مؤسسة قارة ،

6 / يمكن ان تحدد السلطات المختصة في الدولتين المتعاقدتين القواعد الضرورية لتنفيذ مقتضيات هذه الاتفاقية ،

7 / اذا قامت دولة متعاقدة وفقا لاحد مقتضيات هذه الاتفاقية لتخفيض مقدار الضريبة اوبتطبيق اعفاء على دخل مقيم بالدولة المتعاقدة الاخرى واذا كان المقيم ،بناء على التشريع المعمول به في هذه الدولة المتعاقدة الاخرى ،لايخضع للضريبة في هذه الدولة المتعاقدة الاخرى الا فيما يخص الجزء من الدخل المذكور الذي يدفع لهذه الدولة المتعاقدة الاخرى او يستخلص في الدولة المتعاقدة المذكورة فان التخفيض اوالاعفاء لايطبق الا على مبلغ هذا الدخل الذي يدفع الى هذه الدولة المتعاقدة الاخرى اويستخلص في الدولة المتعاقدة المذكورة ،

2) لايمكن تاويل مقتضيات هذه الاتفاقية باعتبارها تخفض بكيفية أو بأخرى من الاستثناءات او الاعفاءات او التخفيضات او القروض او الاسقاطات الاخرى التي تمنح أو يمكن منحها .

أ / عملا بتشريع دولة متعاقدة لاجل تحديد الضريبة التي تقتطعها هذه الدولة:

ب / أو عملا باي اتفاق آخر يبرم بين الدولتين المتعاقدتين .

3) بالرغم من جميع مقتضيات هذه الاتفاقية غير مقتضيات الفقرة (4) يجوز لدولة متعاقدة ان تفرض الضريبة على مواطن او مقيم فالدولة المتعاقدة المذكورة كما لو لم تكن هذه الاتفاقية موجودة .

4) تشمل مقتضيات الفقرة 3:

أ/ المنافع الممنوحة من طرف دولة متعاقدة بناء على الفصول 21 (تجنب فرض الضرائب المزدوجة) و22 (عدم الميز) و25 (الاجراءات الودية) .

ب / المنافع الممنوحة من دولة متعاقدة بناء على الفصلين 18 (الطلبة والمتمرنون) و17 (الوظائف الرسمية) لفائدة اشخاص ذاتيين ليسوا مواطنين لهذه الدولة المتعاقدة ولا يجري عليهم فيها نظام المهاجرين .

5) يجوز للولايات المتحدة استخلاص الضريبة على شركة الشركات الشخصية والضريبة على المدخرات المتجمعة كما لو لم تكن هذه الاتفاقية موجودة غير انه:

أ/ تعفى شركة مغربية من الضريبة التي تفرضها الولايات المتحدة على شركة الشركات الشخصية في اي سنة ضريبية اذا كانت جميع أسهم الشركة المذكورة طيلة مدة سنة فرض الضريبة في أيدي شخص ذاتي او عدة أشخاص ذاتيين مقيمين في المغرب ويعملون بصفتهم الخاصة .

الفصل التاسع عشر

المعاشات والايرادات الخصوصية

1 / ان المعاشات والاجور المماثلة الاخرى المدفوعة لشخص ذاتي مقيم في دولة متعاقدة عن عمل سابق لاتفرض عليها الضريبة الا في هذه الدولة المتعاقدة مع مراعاة مقتضيات الفصل 7 : (الوظائف العمومية) ،

2 / ان النفقات المدفوعة في حالة طلاق والايرادات المؤداة لشخص ذاتي مقيم في دولة متعاقدة لاتفرض عليها الضريبة الا في هذه الدولة المتعاقدة ،

3 / يراد بعبارة "المعاشات والاجور المماثلة الاخرى" المستعملة في هذا الفصل الاداآت الدورية المنجزة بعد التقاعد او الوفاة برسم عمل سابق اوبرسم تعويض عن اضرار لاحقة في نطاق العمل السابق المذكور ،

4 / يراد بعبارة "ايرادات" المستعملة في هذا الفصل مبلغ معين يؤدى دوريا عند حلول آجال مضروبة طيلة الحياة اوخلال عدد محدد من السنوات بناء على التزام بدفع الاداآت مقابل قيمة تامة وملائمة غير المؤداة عن خدمات منجزة ،

5 / يراد بعبارة "النفقات" المستعملة في هذا الفصل الاداآت الدورية التي تدفع على اثر حكم بالطلاق او انفصال بالتراضي او اتفاق على ضمان النفقة اوعلى فصل الفراش والتي يمكن ان تفرض عليها ضريبة يؤديها المستفيد وفقا للتشريع الداخلي للدولة المتعاقدة التي يقيم فيهما ،

الفصل العشرون

القواعد العامة لفرض الضريبة

1 / ان كل مقيم في احدى الدولتين المتعاقدتين تفرض عليه الضريبة في الدولة المتعاقدة الاخرى برسم كل دخل متاصل من مصادر موجودة في هذه الدولة المتعاقدة الاخرى وبرسم هذا المدخول فقط على ان تراعى في ذلك جميع الحدود المقررة في هذه الاتفاقية ولاجل هذا الغرض تطبق القواعد المبينة في الفصل الخامس (مصدر الدخل) قصد تحديد مصدر الدخل ،

الفصل الثامن عشر

الطلبة والمتمرنون

1 / ان الشخص الذاتي الذي يقيم بدولة متعاقدة في بداية مقامه الموقت بالدولة المتعاقدة الاخرى والذي يقيم موقتا في هذه الدولة المتعاقدة الاخرى لغرض رئيسي يتعلق بما يلي :

أ / الدراسة في جامعة اوفي مؤسسة اخرى معترف بها رسميا موجودة بهذه الدولة المتعاقدة الاخرى ،

ب / اوقضاء تمرين يهدف الى تمكينه من التكوين الضروري لمزاولة مهنة اوتخصص مهني

ج / اوالدراسة اوالبحث بصفة مستفيد من منحة او اعانة اوجائزة محصل عليها من مؤسسة ذات صبغة حكومية اودينية اوانسانية اوعلمية او ادبية اوتربوية ، يعفى من الضريبة في هذه الدولة المتعاقدة الاخرى لفترة لا تتجاوز خمس سنوات جبائية تبتدئ من تاريخ وصوله الى هذه الدولة المتعاقدة الاخرى فيما يخص المبالغ المشار اليها في المقطع 2 ،

2 / تتالف المبالغ المنصوص عليها في المقطع الاول من :

أ / الاعانات المحصل عليها من الخارج قصد تعهد المستفيد اوتربيته اودراسته او ابحاثه اوتكوينه ،

ب / المنحة اوالاعانة اوالمكافأة ،

ج / المداخيل المتاصلة من الخدمات الشخصية المنجزة في هذه الدولة المتعاقدة الاخرى والتي لايتجاوز مبلغها 2.000 دولار امريكي اومايعادل ذلك من الدراهم المغربية خلال سنة فرض الضريبة ،

الفصل السادس عشر

الفنـــانـون والرياضيـــون

1/ بالرغم من مقتضيات الفصلين 14 (المهن المستقلة) و15 (المهن غير المستقلة) ، فان المداخيل التي يحصل عليها المحترفون بالفرجات كرجال المسرح والسينما والاذاعة أو التلفزة أو الموسيقيين وكذا الرياضيين من أنشطتهم الشخصية بهذه الصفة تفرض عليها الضريبة في الدولة المتعاقدة التي تزاول فيها الأنشطـــة المذكورة .

وتطبق القاعدة المبينة أعلاه كذلك على المداخيل التي يحصل عليهـــــا الأشخـاص الذين يستغلـون أو ينظمـون الأنشطة المذكورة .

2/ اذا كان دخل الأنشطة التي يزاولها شخصيا فنان أو رياضي يمنـــح الى شخص آخر غير الفنان أو الرياضي نفسه جاز فرض الضريبة عليه في الدولـــــة المتعاقدة التي يزاول فيها الفنان أو الرياضي هذه الأنشطة بالرغم من مقتضيات الفصول 7 (أرباح المقاولات) و 14 (المهن المستقلة) و 15 (المهن غير المستقلة)

3/ لا تطبق مقتضيات الفقرة 1 على مداخيل الأنشطة التي تزاولها داخـل دولة متعاقدة هيئات لا تقصد الربح تابعة للدولة المتعاقدة الأخرى أو بعـــض موظفيها ما عدا اذا كان هؤلاء يعملون لحسابهم الخاص .

الفصل السابع عشـــر

الوظـائـف العموميـــة

ان الأجور والمرتبات والرواتب بما في ذلك المعاشات أو الاعانات المماثلة المدفوعة من طرف دولة متعاقدة مباشرة أو بواسطة اقتطاعات من أموال متألفة منها الى مواطن لهذه الدولة المتعاقدة برسم عمل أنجز أو خدمات مقدمة لفـائـــدة هذه الدولة المتعاقدة أو لاحد تقسيماتها السياسية أو لاحدى منظماتها المحليـــة في نطاق مزاولة وظائف عمومية تعفى من الضريبة في الدولة المتعاقدة الاخرى .

ج / أو اذا كان المبلغ الاجمالي للدخل المذكور يتجاوز 5.000 دولار أمريكي أو مايعادل ذلك من الدراهم المغربيـة.

3/ يراد بعبارة "النشاطات المستقلة" جميع النشاطات غير النشاطات التجارية او الصناعية أو الفلاحية التي يتعاطاها بصفة مستقلة وشخصية فرد يتقاضى الاجرة أو يتحمل الخسارة الناتجة عن هذه النشاطات.

الفصل الخامس عشر

المهـن غيـر المستقلـــــة

1/ ان الاجور والمرتبات والرواتب المماثلة التي يحصل عليها شخص ذاتي مقيم في دولة متعاقدة من عمل أو خدمات شخصية ينجزها في نطاق عمل مأجور تفرض عليها الضريبة في هذه الدولة المتعاقدة بالرغم من مقتضيات الفصل 18 (الطلبة والمتمرنون) والفصل 17 (الوظائف العمومية) وتفرض الضريبة كذلك على الرواتب المتاصلة من الدولة المتعاقدة الاخرى في هذه الدولة المتعاقدة الاخرى مع مراعاة الفقرة الثانية.

2/ ان الاجور المشار اليها في الفقرة الاولى غير التعويض عن الخدمات التي ينجزها عضو بالمجلس الاداري لشركة ما والتي يتقاضاها شخص ذاتي مقيم في دولة متعاقدة تعفى من الضريبة في الدولة المتعاقدة الاخرى.

أ/ اذا كان هذا الشخص مقيما في هذه الدولة المتعاقدة الاخرى لفترة او لعدة فترات يبلغ مجموعها 183 يوما على الاقل خلال سنة فرض الضريبة.

ب/ اذا كان هذا الشخص مشغلا من طرف مقيم في الدولة المتعاقدة الاولى او من طرف مؤسسة قارة يستغلها في هذه الدولة المتعاقدة مقيم بدولة اخرى غير هذه الدولة المتعاقدة.

ج / اذا كان عبء الاجور غير ملقى على كاهل مؤسسة قارة او مركز ثابت يتوفر عليه المشغل في الدولة الاخرى.

3/ بالرغم من مقتضيات الفقرة (2) فان الاجور التي يتقاضاها شخص ذاتي مقابل عمل او خدمات شخصية ينجزها في نطاق عمل مأجور على ظهر بواخر او على متن طائرات يستغلها في النقل الدولي مقيم بدولة متعاقدة تعفى من الضريبة في الدولة المتعاقدة الاخرى اذا كان الشخص المذكور عضوا في طاقم نظامي للباخرة او الطائرة.

ب ـ اذا كان المستفيد من الربح المقيم في دولة متعاقدة يملك في الدولة المتعاقدة الاخرى مؤسسة قارة يكون لها ارتباط فعلي بالمال المترتب عن الربح ،

ج ـ او اذا كان المستفيد من الربح المقيم في دولة متعاقدة :

1 / يتوفر في الدولة المتعاقدة الاخرى على مركز ثابت يرتبط به بالفعل المال المترتب عنه الربح ،

2 / او يقيم في الدولة المتعاقدة الاخرى بفترة او عدة فترات يتجاوز مجموعها 183 يوما خلال سنة فرض الضريبة ،

3 / تطبق مقتضيات الفصل 7 اذا كان الامر يتعلق بالارباح المشار اليها في الفقرة ب

الفصل الرابع عشر

المهن المستقلة

1 / إن المداخيل التي يحصل عليها شخص ذاتي مقيم في دولة متعاقدة من مزاولة مهنة مستقلة تفرض عليها الضريبة في هذه الدولة المتعاقدة وتعفى هذه المداخيل من الضريبة في الدولة المتعاقدة الاخرى مع مراعاة مقتضيات الفقرة 2 ،

2 / ان المداخيل التي يحصل عليها شخص ذاتي مقيم في دولة متعاقدة من مزاولة مهنة مستقلة في الدولة المتعاقدة الاخرى تفرض عليها الضريبة في هذه الدولة المتعاقدة الاخرى ،

أ / اذا كان الشخص المعني بالامر يقيم في هذه الدولة المتعاقدة الاخرى لفترة او عدة فترات يبلغ مجموعها 183 يوما على الاقل خلال سنة فرض الضريبة ،

ب) او اذا كان يتوفر في هذه الدولة المتعاقدة الاخرى على مركز ثابت لفترة او عدة فترات يبلغ مجموعها 90 يوما على الاقل خلال سنة فرض الضريبة فيما اذا كانت فقط هذه المداخيل منسوبة للمركز الثابت المذكور ،

ج / الاجور المؤداة عن دراسات تقنية او اقتصادية والمقتطعة من اموال عمومية للحكومة المغربية في اطار مزاولة مهام ذات صبغة حكومية من طرف الحكومة المغربية او احد اقسامها السياسية او جماعاتها المحلية ،

4 / لاتطبق مقتضيات الفقرة 2 اذا كان المستفيد من الوجيبات المقيم في دولة متعاقدة يملك في الدولة المتعاقدة الاخرى مؤسسة قارة يكون لها ارتباط فعلي بالمال او الحق المترتبة عنه الوجيبات ،وتطبق في هذه الحالة مقتضيات المقطع "أ" من الفقرة 4 من الفصل 7 (ارباح المقاولات) ،

5 / اذا كان مبلغ الوجيبات المؤداة من شخص الى شخص آخر مرتبط به يتجاوز المبلغ الذي كان من الممكن اداؤه الى شخص غير مرتبط فان مقتضيات هذا الفصل لاتطبق الا على مبلغ الوجيبات الذي كان من الممكن اداؤه الى شخص غير مرتبط . ويمكن في هذه الحالة ان تفرض الضريبة على القسط الزائد في كل دولة متعاقدة طبقا لتشريعها بما في ذلك مقتضيات هذه الاتفاقية عندما يكون من الواجب تطبيقها ،

الفصل الثالث عشر

الارباح المتأتية من رؤوس الاموال

1 / لاتفرض الضريبة على مقيم بدولة متعاقدة الا في هذه الدولة بخصوص الارباح المتأتية من بيع اومعاوضة بعض عناصر راس المال ،

2 / لاتطبق مقتضيات الفقرة 1 من هذا الفصل :

أ ـ اذا كان الربح الذي حصل عليه مقيم بدولة متعاقدة متأتيا من بيع اومعاوضة الاموال المشار اليها في الفصل 6 (المداخيل العقارية) الموجودة في تراب الدولة المتعاقدة الاخرى اومن بيع اومعاوضة اسهم اوحصص من نوع مماثل في شركة عقارية اوفي شركة تتألف اصولها خصيصا من املاك عقارية ،

6 / ان الفوائد المقبوضة من طرف دولة متعاقدة او مؤسسة عمومية تابعة لهذه الدولة وغير خاضعة للضريبة المفروضة على الدخل تعفى من الضريبة في الدولة التي هي متأصلة منها ؛

الفصل الثاني عشر

الوجيبات

1 / ان الوجيبات التي يحصل عليها من مصادر موجودة في دولة متعاقدة مقيم في الدولة المتعاقدة الاخرى يمكن ان تفرض عليها الضريبة في الدولتين المتعاقدتين معا ؛

2 / ان مقدار الضريبة التي تستخلصها دولة متعاقدة من الوجيبات التي يحصل عليها من مصادر موجودة في هذه الدولة المتعاقدة مقيم في الدولة المتعاقدة الاخرى ينبغي ان لا تتجاوز 10 في المائة ؛

3 / يراد بلفظة "وجيبات" المستعملة في هذا الفصل :

أ / جميع انواع الاجور المدفوعة في مقابل الانتفاع او الامتياز في الانتفاع بحقوق مؤلف في انتاجات ادبية او فنية او علمية وكذا حقوق المؤلف المتعلقة بافلام سينماتوغرافية او بافلام او اشرطة معدة للاذاعة او التلفزة او براءات للاختراع او رسوم او نماذج او تصاميم او مناهج او اساليب سرية او علامات صنع او ممتلكات او حقوق اخرى متشابهة او معلومات او تجارب او معطيات بما في ذلك الاجور المدفوعة عن تقديم مساعدة تقنية اضافية لاجل استعمال الممتلكات او الحقوق المذكورة اعلاه ما تم تقديم هذه المساعدة في الدولة المتعاقدة المتأصلة منها الاجور المؤداة عن استعمال الممتلكات او الحقوق ؛

ب / الارباح المتأصلة من بيع هذه الممتلكات او الحقوق او معاوضتها او تفويتها في اي شكل من الاشكال اذا ما كانت المبالغ المحصل عليها برسم البيع او المعاوضة او التفويت محددة حسب طاقة انتاج الممتلكات او الحقوق المذكورة او استعمالها او تفويتها

الفصل الحادي عشر

الفـوائـــــد

1 / ان الفوائد التي حصل عليها من مصادر موجودة في دولة متعاقدة مقيم بالدولة المتعاقدة الاخرى يمكن ان تفرض عليها الضريبة في الدولتين المتعاقدتين معا ،

2 / ان مقدار الضريبة المستخلصة من طرف دولة متعاقدة برسم الفوائد التي يحصل عليها من مصادر موجودة في هذه الدولة المتعاقدة مقيم بالدولة المتعاقدة الاخرى لايمكن ان يتجاوز 15 ٪ ،

3 / لاتطبق الفقرتان الاولى والثانية من هذا الفصل اذا كان المستفيد من الفوائد المقيم في دولة متعاقدة يملك في الدولة المتعاقدة الاخرى مؤسسة تجارية يرتبط بها بالفعل الدين المرتبة عنه الفوائد وتطبق في هذه الحالة مقتضيات الفصل 7 ،

4 / يراد بعبارة "فوائد" المستعملة في هذا الفصل مداخيل الاموال العمومية وسندات الاقتراض سواء كانت مشفوعة اوغير مشفوعة بضمانات رهنية اومقرونة بشرط للمساهمة في الارباح ومداخيل الديون ايا كان نوعها وكذا جميع المحمولات الاخرى المعتبرة بمثابة مداخيل للمبالغ المقرضة وفقا للتشريع الجبائي للدولة المتاصلة المداخيل منها ،

5 / اذا كان مبلغ الفوائد المؤداة باعتبار الدين المدفوعة من اجله يتجاوز — بسبب علاقات خاصة تربط بين المدين والدائن اوتربط بينهما وبين اشخاص آخرين — المبلغ المتفق عليه بين المدين والدائن في حالة عدم وجود مثل هذه العلاقات فان مقتضيات هذا الفصل لاتطبق الا على المبلغ الاخير ،

وتفرض الضريبة في هذه الحالة على القسط الزائد من الاداآت طبقا لتشريع كل دولة متعاقدة ورعيا للمقتضيات الاخرى من هذه الاتفاقية ،

2 / ان حصص الارباح المتاتية من مصادر موجودة في تراب دولة متعاقدة ومستخلصة من طرف مقيم في الدولة المتعاقدة الاخرى يمكن ان تفرض عليها الضريبة كذلك في الدولة الاولى غير ان الضريبة المفروضة بسبب حصص الارباح المذكورة لايمكن ان تتجاوز :

أ) 15 في المائة من المبلغ الموزع بالفعل ،

ب) او اذا كان المستفيد شركة ، 10 في المائة من المبلغ الموزع بالفعل :

1 ـ عندما تكون الشركة المستفيدة قد ملكت على الاقل 10 في المائة من الاسهم مع الحق في التصويت في الشركة الموزعة خلال الفترة من سنة فرض الضريبة على الشركة الموزعة السابقة لتاريخ دفع حصص الارباح وخلال مجموع السنة السابقة لفرض الضريبة (فيما اذا وجدت هذه السنة) ،

2) عندما لم يتم خلال السنة السابقة لفرض الضريبة على الشركة الموزعة (فيما اذا وجدت هذه السنة) تكوين المدخل الاجمالي للشركة المذكورة الى غاية اكثر من 25 في المائة من مبلغ فوائد اوحصص ارباحه (غير الفوائد المتعلقة بانشطة بنكية اومالية اوبعمليات للتامين وكذا الفوائد اوحصص الارباح المحصل عليها من فروع تملك الشركة الموزعة 50 في المائة من اسهمها مع الحق في التصويت لوقت استخلاص حصص الارباح اوالفوائد المذكورة) ،

3) لاتطبق الفقرة (2) اذا كان المستفيد من حصص الارباح المقيم في دولة متعاقدة يملك في الدولة المتعاقدة الاخرى مؤسسة قارة ترتبط بها بالفعل الاسهم اوالحصص المدفوعة حصص الارباح على اساسها وفي هذه الحالة تطبق الفقرة (4) من الفصل 7 (ارباح المقاولات) ،

4) ان حصص الارباح المدفوعة من طرف شركة دولة متعاقدة الى شخص غير مقيم في الدولة المتعاقدة الاخرى (واذا كان الامر يتعلق بحصص ارباح مدفوعة من طرف شركة مضريبة الى شخص لاينتمي الى الولايات المتحدة) تعفى من الضريبة في هذه الدولة المتعاقدة الاخرى . ولاتطبق هذه الفقرة اذا كان المستفيد من حصص الارباح يملك في الدولة المتعاقدة الاخرى مؤسسة قارة ترتبط بها بالفعل الاسهم اوالحصص المدفوعة حصص الارباح على اساسها ،

الفصل التاسع

الاشخاص الشركاء

1 / اذا كان مقيم بدولة متعاقدة ومقيم بالدولة المتعاقدة الاخرى مرتبطين فيما بينهما وكان هذان الشخصان قد ابرما فيما بينهما اوثاقا اوفرضا على نفسيهما شروطا تختلف عن الشروط التي قد تكون مقبولة فيما بين اشخاص مستقلين فان المداخيل اوالخصوم او القروض اوالتخفيضات كيفما كانت والتي كان من الممكن لولا هذه الاوثاق اوالشروط اعتبارها في تقدير الدخل الذي حصل عليه (اوالخسارة التي تحملها) احد هذين الشخصين لوفي تقدير الضريبة المفروضة عليه يمكن اعتبارها في تقدير مبلغ الدخل الواجب اداء الضريبة عليه والضرائب المفروضة على الشخص المذكور،

2 / يعتبر شخصا ما مرتبطا بشخص آخر اذا كان احدهما يملك اويراقب ،بكيفية مباشرة اوغير مباشرة ،الشخص الآخر او اذا كان شخص او اشخاص آخرون يملكون او يراقبون ، بكيفية مباشرة اوغير مباشرة ،الشخصين المذكورين . ولاجل هذا الغرض فان عبارة " مراقبة " تشمل كل مراقبة كيفما كان نوعها ،سواء طبقت بصفة قانونية ام لا وكيفما كانت الوسائل التي تمارس اويمكن ان تمارس بهما ،

الفصل العاشر

حصص الارباح

1 / ان حصص الارباح المتاصلة من مصادر موجودة في دولة متعاقدة ومستخلصة من طرف مقيم في الدولة المتعاقدة الاخرى تفرض الضريبة في الدولتين معا ،

5 / اذا كانت الارباح الصناعية اوالتجارية مشتملة على عناصر الدخل المشار اليها بكيفية مستقلة في فصول اخرى من هذه الاتفاقية فان مقتضيات هذه الفصول تحوض مقتضيات هذا الفصل مالم تنص الفصول المذكورة على خلاف ذلك ،

الفصل الثامن

الملاحة البحرية اوالجوية

1 / ان المداخيل التي يحصل عليها مقيم بدولة متعاقدة من استغلاله في النقل الدولي بواخر مسجلة في هذه الدولة المتعاقدة والارباح التي يحصل عليها مقيم بدولة متعاقدة من بيع اومعاونة اوتفويت بواخر مستغلة في النقل الدولي من طرف هذا المقيم ومسجلة في الدولة المتعاقدة تعفى من الضريبة في الدولة المتعاقدة الاخرى بالرغم عن مقتضيات الفصل 7 (ارباح المقاولات) والفصل 13 (ارباح راس المال) ،

2 / ان المداخيل التي يحصل عليها مقيم بدولة متعاقدة من استغلاله في النقل الدولي طائرات مسجلة في دولة متعاقدة اوفي دولة ابرمت معها الدولة المتعاقدة الاخرى في ميدان الضرائب على الدخل اتفاقية تعفى بموجبها هذه المداخيل من الضرائب ،وكذا الارباح التي يحصل عليها مقيم بدولة متعاقدة من بيع او معاونة اوتفويت طائرات مستغلة في النقل الدولي من طرف هذا المقيم ومسجلة في احدى الدولتين المتعاقدتين اوفي دولة ابرمت معهما الدولة المتعاقدة الاخرى اتفاقية تعفى بموجبها المداخيل والارباح المذكورة من الضريبة لاتفرض عليها الضريبة في الدولة المتعاقدة الاخرى بالرغم عن مقتضيات الفصل 7 (ارباح المقاولات) والفصل 13 (ارباح راس المال) ،

الفصل السابع

أرباح المقاولات

1/ ان الارباح الصناعية او التجارية لمقيم بدولة متعاقدة تعفى من الضريبة في الدولة المتعاقدة الاخرى مالم يزاول هذا المقيم نشاطا صناعيا او تجاريا في الدولة المتعاقدة الاخرى بواسطة مؤسسة قارة موجودة فيها ، واذا كان المقيم يزاول نشاطا بهذه الكيفية وجب فرض الضريبة على ارباحه الصناعية او التجارية في هذه الدولة الاخرى فيما اذا كانت فقط منسوبة للمؤسسة القارة المذكورة .

2/ اذا كان مقيم بدولة متعاقدة يمارس نشاطا صناعيا او تجاريا في الدولة المتعاقدة الاخرى بواسطة مؤسسة قارة موجودة فيها وجب ان تنسب الى هذه المؤسسة القارة في كل دولة متعاقدة الارباح الصناعية او التجارية التي تكون قد نسبت اليها لو كونت وحدة مستقلة تمارس انشطة مماثلة او متشابهة في ظروف مماثلة او متشابهة وتتعامل بكامل الاستقلال مع المقيم الذي يعتبر مؤسسته قارة .

3/ تخصم المصاريف التي تنفقها المؤسسة القارة لتحقيق غايتها عند حساب ارباح هذه المؤسسة القارة بما في ذلك النفقات والمصاريف العامة المتعلقة بالخدمات المنجزة لفائدة هذه المؤسسة القارة سواء في الدولة الموجودة بها هذه المؤسسة القارة او في اي مكان آخر .

4) أ ـ يراد بعبارة "ارباح تجارية او صناعية لمقيم ما" المداخيل المتأصلة من نشاط صناعي او تجاري او فلاحي او منجمي او من الصيد او استغلال السفن او الطائرات او ايجار ممتلكات عقارية أو من نشاط للتأمين، كما يراد بها المداخيل العقارية والموارد الطبيعية وحصص الارباح والفوائد والوجيبات (المبينة في الفصل 12) وارباح راس المال ولكن فيما اذا كانت للحق او المال المترتبة عنه هذه المداخيل او حصص الارباح او الفوائد او الوجيبات او ارباح رأس المال علاقة فعلية بالمؤسسة القارة التي يملكها المستفيد المقيم بدولة متعاقدة في الدولة المتعاقدة الاخرى ، ولا تشمل المداخيل المستخلصة من طرف شخص ذاتي مقابل خدمات انجزها بصفة مستخدم او في نطاق مزاولة مهنة مستقلة .

ب ـ لتحديد ما اذا كانت الممتلكات او الحقوق ترتبط ارتباطا فعليا بالمؤسسة القارة ، فان العوامل التي تؤخذ بعين الاعتبار يجب ان تتضمن مسألة ما اذا كانت تلك الممتلكات او الحقوق مستعملة أو ممسكة قصد استعمالها لاغراض النشاطات الصناعية او التجارية التي يزاولها وسيط المؤسسة القارة المذكورة وما اذا كانت النشاطات التي يزاولها الوسيط المذكور تدخل بقسط وافر في تحقيق الدخل المحصل عليه من الممتلكات او الحقوق المشار اليها ولهذه الغاية يجب التأكد بصفة قانونية من ان الممتلكات او الحقوق المذكورة او الدخل المشار اليه قد ادرجت في محاسبة هذه المؤسسة القارة .

9 / ان مصدر كل عنصر من الدخل لاتطبق عليه الفقرات الاولى الى غاية الثامنة تحدد ، كل دولة من الدولتين المتعاقدتين طبقا لتشريعها الخاص وبالرغم من الجملة السالفة اذا كان مصدر كل عنصر للدخل حسب تشريع دولة متعاقدة يختلف عن مصدر هذا العنصر من الدخل وفقا لتشريع الدولة الاخرى المتعاقدة او اذا لم يكن من السهل تحديد مصدر هذا الدخل تبعا لتشريع دولة متعاقدة فان السلطات المختصة للدولتين المتعاقدتين يمكنها قصد تجنب فرض الضرائب المزدوجة او الاستجابة لاي هدف آخر لهذه الاتفاقية تحديد مصدر مشترك لعنصر الدخل من اجل حاجات هذه الاتفاقية ،

الفصل السادس

بيع الاملاك العقارية

1 / ان المداخيل المتحصلة من الممتلكات العقارية بما فيها الوجيبات المتعلقة باستغلال المناجم اوالمقالع اوغيرها من الموارد الطبيعية وكذا الارباح الناتجة من بيع هذه الممتلكات اوالحقوق المتعلقة بالوجيبات اومعاوضتها اوتفويتها بصفة ما تفرض عليها الضريبة في الدولة المتعاقدة التي توجد بها هذه العقارات اوالمناجم اوالمقالع او الموارد الطبيعية الاخرى ،ولاجل تطبيق هذه الاتفاقية فان فوائد الاقتراضات المضمونة بممتلكات عقارية اوبحق مترتبة عنه وجيبات تتعلق باستغلال المناجم اوالمقالع او الموارد الطبيعية الاخرى لاتعتبر مداخيل املاك عقارية ،

2 / تطبق مقتضيات الفقرة 1 على المداخيل الناتجة من الانتفاع بالممتلكات العقارية او استغلالها المباشر اوكرائها وكذا عن اي شكل من اشكال استغلالها

5 / ان المداخيل الناتجة عن اكراء اموال مادية (اموال منقولة) تعتبر متاحلة من دولة متعاقدة فقط اذا كانت الاموال موجودة في هذه الدولة المتعاقدة ،

6 / ان المداخيل المحصل عليها من طرف شخص ذاتي من اجل انجاز عمل اوخدمات شخصية سواء في اطار وظيفة ماجورة اوبصفة مستقلة تعتبر متاحلة من دولة متعاقدة فقط اذا كانت هذه الخدمات منجزة داخل هذه الدولة المتعاقدة ،اما المداخيل المحصل عليها عن خدمات شخصية منجزة على ظهر بواخر اوعلى متن طائرات مستغلة في النقل الدولي من طرف مقيم في دولة متعاقدة فتعتبر متاحلة في هذه الدولة المتعاقدة اذا كانت الخدمات المذكورة منجزة من طرف عضو الطاقم المنتظم للباخرة اوالطائرة ،وحسب مدلول هذه الفقرة تدخل في المداخيل المحصل عليها من اجل عمل اوخدمات شخصية المعاشات (كما هو المعرف بها في الفقرة 3 من الفصل 19 (المعاشات والايرادات الخصوصية) المؤداة عن هذه الخدمات ،وبالرغم من المقتضيات السابقة من هذه الفقرة ،فان المرتبات المشار اليها في الفصل 17 (الوظائف العمومية) تعتبر متاحلة من دولة متعاقدة فقط اذا كانت مؤداة من طرف هذه الدولة المتعاقدة عن طريق الاقتطاع من الاموال المتجمعة من هذه المرتبات ،

7 / ان المداخيل الناتجة عن بيع وشراء الاموال المادية او الغير المادية (بما فيها الاموال المنقولة) ماعدا الارباح المعرف بها كوجيبات في الفصل 12 (الوجيبات) تعتبر متاحلة من دولة متعاقدة فقط اذا كانت هذه الاموال مبيعة داخل هذه الدولة المتعاقدة ،

8 / بالرغم من مقتضيات الفقرات الاولى الى غاية الفقرة السابعة ،فان الارباح الصناعية اوالتجارية المتاحلة من مؤسسة قارة يملكها المستفيد المقيم بدولة متعاقدة داخل الدولة المتعاقدة الاخرى بما فيها المداخيل الناتجة عن عقارات وموارد طبيعية وكذلك حصص الارباح والفوائد والوجيبات (كما هو مشار اليها في الفصل 12 (الوجيبات) والارباح في راس المال فيما اذا كانت فقط للاموال اوالحقوق المنتجة لهذه المداخيل اوحصص الارباح او الفوائد او الوجيبات او ارباح في راس المال علاقة فعلية بهذه المؤسسة القارة تعتبر ذات متاحلة من هذه الدولة المتعاقدة الاخرى ،

الفصل 5

مصدر الدخل

حسب مدلول هذه الاتفاقية :

1) تعتبر حصص الارباح متاصلة من دولة متعاقدة فقط اذا كانت تؤديها شركة تنتمي الى هذه الدولة المتعاقدة .

2) تعتبر الفوائد متاصلة من دولة متعاقدة فقط اذا كانت تؤديها هذه الدولة المتعاقدة او احد اقسامها السياسية او اجماعاتها المحلية او مقيم بهذه الدولة المتعاقدة وبالرغم من الجملة السابقة .

أ ـ اذا كان المدين بالفوائد (سواء اكان مقيما ام لا بدولة متعاقدة) يتوفر في دولة متعاقدة على مؤسسة قارة ابرم من اجلها الاقتراض المنتج للفوائد وتتحمل هذه الفوائد .

ب ـ او اذا كان المدين بالفوائد مقيما بدولة متعاقدة وكان يتوفر في دولة اخرى غير دولة متعاقدة على مؤسسة قارة ابرم من اجلها الاقتراض المنتج للفوائد وتتحمل هذه الفوائد المؤداة لمقيم بالدولة المتعاقدة الاخرى ،فان هذه الفوائد تعتبر متاصلة من الدولة التي توجد بها المؤسسة القارة.

3) ان الوجيبات المشار اليها في الفصل 12(الوجيبات) لاجل الانتفاع او الامتياز في الانتفاع بالاموال او الحقوق المبينة في الفصل المذكور تعتبر متاصلة من دولة متعاقدة فقط فيما اذا :

أ ـ كانت لها علاقة بحق الانتفاع او الامتياز في الانتفاع بالاموال او الحقوق المذكورة وتقديم الخدمات الاضافية داخل هذه الدولة المتعاقدة .

ب ـ كانت تؤدى عن دراسات تقنية واقتصادية محدد تعريفها في الفقرة ج من الفصل 12 .

4) ان المداخيل الناتجة عن اموال عقارية والوجيبات المتعلقة باستغلال المناجم او المقالع او الموارد الطبيعية الاخرى (بما فيها الارباح الناتجة عن بيع هذه الاموال او الحقوق المرتبة عنها الوجيبات المذكورة) تعتبر متاصلة من دولة متعاقدة فقط اذا كانت هذه الاموال موجودة داخل هذه الدولة المتعاقدة .

3) بالرغم من مقتضيات الفقرتين 1 و 2 لا يعتبر ان هناك مؤسسة قارة اذا كانت منشأة قارة للاعمال يمارس فيها فقط نشاط اوعدة انشطة من الانشطة الآتية :

أ / استعمال المنشآت لاغراض الذخار اوعرض او تسليم بضائع على ملك المقيم ،

ب / ايداع بضائع على ملك المقيم لاجل الاذخار او العرض او التسليم

ج / ايداع بضائع على ملك المقيم لاجل تحويلها من طرف شخص آخر ،

د / استعمال منشأة قارة للاعمال قصد (اشتراء بضائع او جمع معلومات لفائدة المقيم)

هـ / استعمال منشأة قارة للاعمال بقصد الاشهار او تقديم المعلومات أو الابحاث العلمية او الانشطة المماثلة التي تكتسي بالنسبة للمقيم صبغة عمل تحضيري أو اضافي ،

4) بالرغم من مقتضيات الفقرتين 2 و 3 يعتبر احد المقيمين بدولة متعاقدة متوفرا على مؤسسة قارة في الدولة المتعاقدة الاخرى اذا كان يحتفظ فيها بادوات مهمة قصد الكراء لفترة ستة اشهر فاكثر ،

5) كل شخص ـ غير الوكيل المتمتع بنظام مستقل المشار اليه في الفقرة 6 ـ يعمل في دولة متعاقدة لحساب مقيم في الدولة المتعاقدة الاخرى يعتبر بمثابة مؤسسة قارة في الدولة المتعاقدة الاولى اذا كان يتوفر في هذه الدولة على سلطات يمارسها فيها عادة وتخوله الحق في ابرام عقود باسم المقيم المذكور ماعدا اذا كانت ممارسة هذه السلطات مقتصرة على اشتراء بضائع للمقيم ،

6) لا يعتبر مقيم في دولة متعاقدة متوفرا على مؤسسة قارة في الدولة المتعاقدة الاخرى لمجرد ممارسته فيها نشاطا صناعيا او تجاريا بواسطة سمسار أو مندوب عام او اي وسيط آخر يتمتع بنظام مستقل بشرط ان يزاول هؤلاء الاشخاص اعمالهم في النطاق العادي لنشاطهم ،

7) ان ارتباط مقيم في دولة متعاقدة بمبلغ في الدولة المتعاقدة الاخرى أو بشخص يزاول نشاطا صناعيا او تجاريا في هذه الدولة المتعاقدة الاخرى (سواء كان ذلك بواسطة مؤسسة قارة او غير قارة) لا يعتبر لتحديد ما اذا كان هذا المقيم بالدولة الاولى يتوفر على مؤسسة قارة في الدولة المتعاقدة الاخرى ،

د / اذا كان هذا الشخص ينتمي الى كلتا الدولتين المتعاقدتين أو كان لا ينتمي الى اية دولة منهما فان السلطات المختصة للدولتين المتعاقدتين تبت في الامر باتفاق مشترك ،

ولتطبيق هذه الفقرة يكون المقر الدائم للسكنى هو المكان الذي يسكن فيه شخص ذاتي مع عائلته ،

3) ان الشخص الذاتي الذي يعتبر حسب مقتضيات الفقرة 2 مقيما في دولة متعاقدة وغير مقيم في الدولة المتعاقدة الاخرى يعتبر فقط مقيما في الدولة الاولى لاجل تطبيق جميع مقتضيات هذه الاتفاقية بما في ذلك الفصل 20 (القواعد العامة لفرض الضريبة) ،

الفصل الرابع

المؤسسة القارة

1) يراد حسب مدلول هذه الاتفاقية بعبارة " مؤسسة قارة " منشأة اعمال قارة يمارس بواسطتها احد المقيمين بدولة متعاقدة نشاطا صناعيا او تجاريا

2) تفيد عبارة " مؤسسة قارة للاعمال " على الخصوص :

أ / مقر الادارة

ب / فرعا للادارة

ج / مكتبا

د / معملا

هـ / مصنعا

و / مستودعا

ز / متجرا او مكانا آخر للبيع

ح / منجما او مقطعا او اي مكان آخر لاستخراج الموارد الطبيعية

ط / ورشا او مشروعا للبناء او التركيب تتجاوز مدة العمل به ستة اشهر

1) شركة مغربية

2) كل شخص (غير شركة او وحدة قانونية تعتبر حسب التشريع المغربي بمثابة شركة) يقيم بالمغرب لاجل فرض الضريبة المغربية

ب/ بعبارة " مقيم بالولايات المتحدة " :

1) شركة امريكية

2) كل شخص (غير شركة او وحدة قانونية تعتبر بمثابة شركة حسب تشريع الولايات المتحدة) يعتبر مقيما بالولايات المتحدة لاجل فرض الضريبة عليه ، اذا كان الامر يتعلق بشخص عضو في شركة اشخاص (بارتير نير شيب) او يعمل بصفة ممثل فقط (فيدوسياري) فيما اذا كان الدخل الذي يمتلكه هذا الشخص بهذه الصفة مفروضة عليه الضريبة باعتباره دخلا لشخص مقيم ،

2 / اذا كان شخص ذاتي يعتبر حسب مقتضيات الفقرة —1 — مقيما في كل دولة من الدولتين المتعاقدتين :

أ/ يعتبر هذا الشخص مقيما في الدولة المتعاقدة التي يتوفر فيها على مقر دائم للسكنى وعندما يتوفر على مقر دائم للسكنى في كلتا الدولتين المتعاقدتين او عندما لا يتوفر على مقر للسكنى في اية دولة من الدولتين يعتبر مقيما في الدولة المتعاقدة التي تكون علاقته الشخصية والاقتصادية بها اكثر متانة (مركز المصالح الحيوية)

ب/ اذا تعذر تعيين الدولة المتعاقدة التي يتوفر فيها الشخص المذكور على مركز مصالحه الحيوية اعتبر مقيما في الدولة المتعاقدة التي يقيم فيها بصفة اعتيادية ،

ج / اذا كان هذا الشخص يقيم بصفة اعتيادية في كل من الدولتين المتعاقدتين او كان لا يقيم بصفة اعتيادية في اية دولة من الدولتين المتعاقدتين اعتبر مقيما في الدولة المتعاقدة التي ينتمي اليها ،

ج / بعبارة " دولة متعاقدة " أو " الدولة المتعاقدة الاخرى " حسب سياق هذه الاتفاقية الولايات المتحدة او المغرب ،

د / بعبارة " شخص " شخص ذاتي او جمعية اشخاص او شركة او مجموعة ورثة او اتحاد او اية مجموعة اشخاص اخرى ،

هـ/ 1) بعبارة " شركة امريكية " أو " شركة الولايات المتحدة " كل شركة محدثة او منظمة حسب تشريع الولايات المتحدة او احدى الولايات الاعضاء او مقاطعة كلومبيا او كل وحدة بدون شخصية قانونية تعتبر بمثابة شركة امريكية لاجل فرض ضريبة الولايات المتحدة ،

2) بعبارة " شركة مغربية " او " شركة المغرب " كل شخص معنوي او كل وحدة تعتبر حسب التشريع الجبائي المغربي بمثابة شخص معنوي مقيم بالمغرب لاجل فرض الضريبة المغربية ،

و/ بعبارة " سلطة مختصة :

1) فيما يخص الولايات المتحدة : كاتب الدولة في الخزينة او ممثله ،

2) فيما يخص المغرب : الوزير المكلف بالمالية او مندوبه :

ز/ بعبارة " الدولة " كل دولة ذات سيادة سواء كانت دولة متعاقدة أم لا ،

2) كل عبارة اخرى مستعملة وغير محدد تعريفها في هذه الاتفاقية يكون لها مالم يقتض سياق النص تأويلا مخالفا لها في تشريع الدولة المتعاقدة التي يجب فرض ضريبتها ،

الفصل الثالث

مقر الاقامة الجبائي

1) يراد حسب مدلول هذه الاتفاقية :

أ/ بعبارة " مقيم بالمغرب " :

الفصل الثاني

تعاريف عامة

1) يراد حسب مدلول هذه الاتفاقية مالم يقتض سياق نص تأويل مخالفا :

أ/1) بعبارة " الولايات المتحدة " الولايات المتحدة الامريكية

أ/2) تفيد عبارة الولايات المتحدة عندما تستعمل بالمعنى الجغرافي الولايات الاعضاء ومقاطعة كلومبيا . وتراد بها كذلك (أ) مياهها الاقليمية و (ب) قعر البحر وباطن الارض في الجهات الواقعة في باطن البحر المتاخمة لساحل الولايات المتحدة والكائنة فيما وراء المياه الاقليمية والتي تمارس فيها الولايات المتحدة طبقا للقانون الدولي حقوق السيادة في التنقيب عن الموارد الطبيعية واستغلالها بهذه الجهات (النجد القاري) ولكن بشرط ان تكون للشخص او المال او النشاط الذي يجب ان تطبق عليه هذه الاتفاقية علاقة بهذا التنقيب او هذا الاستغلال ،

ب/1) بعبارة "المغرب" المملكة المغربية

2) تفيد عبارة المغرب عندما تستعمل بالمعنى الجغرافي (أ) المياه الاقليمية للمغرب و (ب) قعر البحر وباطن الارض في الجهات الواقعة في باطن البحر المتاخمة لساحل المغرب والكائنة فيما وراء المياه الاقليمية والتي يمارس فيها المغرب طبقا للقانون الدولي حقوق السيادة في التنقيب عن الموارد الطبيعية واستغلالها في هذه الجهات (النجد القاري) ولكن بشرط ان تكون للشخص او المال او النشاط الذي يجب ان تطبق عليه هذه الاتفاقية علاقة بهذا التنقيب او هذا الاستغلال ،

الفصل الاول

الضرائب المطبقة عليها هذه الاتفاقية

1) تطبق هذه الاتفاقية على الضرائب التالية :

أ / فيما يخص الولايات المتحدة الامريكية : الضرائب الفدرالية المفروضة على الدخل والمنصوص عليها في قانون الدخل الداخلي (المدعوة بعده " ضريبة الولايات المتحدة الامريكية "

ب / فيما يخص المغرب : الضريبة الفلاحية والضريبة الحضرية والادداآت المرتبطة بها والضريبة المفروضة على الارباح المهنية والقرض الاجباري للاستثمار من طرف الحكومة المغربية المنصوص عليه في الفصل 37 من المرسوم الملكي رقم 65 / 1010 الصادر في 8 رمضان 1385 (31 دجنبر 1965) بمثابة قانون المالية لسنة 1966 ، والاقتطاع من المرتبات العمومية والخصوصية ومن التعويضات المستفادات والاجور والمعاشات والايرادات العمرية والمساهمة التكميلية المرتبة على الدخل الاجمالي للاشخاص الذاتيين هي الضرائب المدعوة بعده " الضريبة المغربية "

2) تطبق هذه الاتفاقية على الضرائب المقبلة ذات الطابع المماثل التي قد تضاف الى الضرائب الحالية أو تحل محلها بعد تاريخ التوقيع على هذه الاتفاقية ،

3) تطبق هذه الاتفاقية ايضا رعيا لحاجات الفصل 22 (عدم الميز) على الضرائب كيفما كان نوعها سواء كانت تستخلص لفائدة الدولة او الجماعات المحلية او الولايات . كما تطبق هذه الاتفاقية رعيا لحاجات الفصل 26 (تبادل المعلومات) على الضرائب كيفما كان نوعها المستخلصة لحساب الدولة

ان حكومة الولايات المتحدة الامريكيـــة وحكومـة المملكة المغربيـــة رغبـــة منهـــا في ابرام اتفاقيـــة لتجنـب فرض الضرائب المزدوجة فيمـــــــــا يرجـع للضرائب المفروضـــة على الدخـــل ومنع التملص الجبائـــي اتفقتـا علـى المقتضيات الاتيـــــــة :

الاتفاقيـــــــــــة

المبرمـــــــة بين حكومـة الولايات المتحـدة الامريكيـــــة

و

حكومـــــة المملكـــــة المغربيـــــــــــــــــــــــــــة

الراميـة الى تجنـب فرض الضرائب المزدوجـــة فيمـــــا يرجـع للضرائب المفروضـــة علـــى الدخـــــــل .

[EXCHANGE OF NOTES]

Rabat, le 1er Août 1977

Son Excellence
Monsieur Robert Anderson
Ambassadeur des Etats Unis d'Amérique
Rabat

Monsieur l'Ambassadeur

Au cours des conversations qui se sont poursuivies tant à Rabat qu'à Washington en vue de la conclusion d'une Convention tendant à éviter la double imposition entre les Etats Unis et le Maroc, la délégation marocaine a mis l'accent auprès de la délégation américaine sur le sacrifice consenti par le Gouvernement marocain en vue de promouvoir l'investissement privé en s'abstenant d'imposer certains bénéfices et intérêts. Elle a exprimé le souhait de voir le Gouvernement américain accorder en conséquence aux citoyens et résidents des Etats Unis l'imputation d'un impôt fictif sur l'impôt américain. La délégation américaine tout en invoquant les réticences du Sénat à entériner une telle disposition dans d'autres conventions fiscales, a néanmoins promis de reconsidérer sa position dans le cas où le Sénat reviendrait sur sa décision.

Je vous serais très obligé de bien vouloir me confirmer l'engagement de reprendre la discussion sur ce point particulier au cas où le Sénat adopterait une disposition de ce genre en faveur d'un pays tiers.

Veuillez agréer, Monsieur l'Ambassadeur, l'assurance de ma très haute considération.

Abdelkader Benslimane

Arabic Text of the Moroccan Note

الرباط في فاتح غشت 1977
موافق 15شعبان سنة 1397

معالـــى السيـد روبيرت اندير ســون

سفيـــر الولايات المتحـدة الامريكيـــــــــــــــــــة

الربـــــاط

سيـــدى السفيـــــر

خلال المحادثات التي اجريت في كل من الرباط وواشنطون قصد ابرام اتفاقيـة تهـدف الى تجنب ازدواجية الضريبة بين الولايات المتحدة والمغرب ،اكـد الوفد المغربي للوفـد الامريكـي على التضحية التي تتحملهـا الحكومة المغربية بغية تنميـــة الاستثمـار الخاص بامتناعهـا عن فرض الضريبة على بعض الارباح والفوائـد ،كما عبر عـــن املـــه في ان تمكـن الحكومـة الامريكيـة بناء على ذلك المواطنين والمقيمين بالولايـات المتحـدة من الانتفاع بخصم ضريبة وعميـة من الضريبة الامريكيـة ،غير ان الوفـــــد الامريكـي الذي استنـد الى امتناع مجلس الشيوخ من المصادقـة على مثـل هـــذا المقتضـــى في اتفاقيـــات جبائيـة اخرى قد وعـد بمراجعـة موقفـه في حالة ما اذا تراجـع مجلس الشيوخ عن قراره .

وساكون ممنونـا لكم اذا تفضلتم فاكدتم الالتزام باستئناف المناقشة حـــول هذه النقطـــة الخاصـة اذا صادق مجلس الشيوخ على العمل بمقتضى من هذا النـــوع لفائدة بـلد آخـــر .

وتقبلـــوا سيـــــدى السفيـــــــر ،فائق تقديـــرى.

عبد القادر بنسليمـــان

Rabat, August 1, 1977

His Excellency
Mr. Abdelkader Benslimane
Minister of Finance
Rabat

Excellency:

In your letter of today's date you kindly informed me of the following:

"During the discussions which were held in both Rabat and Washington for the purpose of concluding a convention to avoid double taxation between the United States and Morocco, the Moroccan delegation emphasized to the American delegation that the Moroccan Government, for the purpose of promoting private investment, will exempt certain profits and interest payments from taxation. The Moroccan delegation expressed its hope that the U.S. Government would accordingly grant citizens and residents of the United States a 'tax-sparing' credit against the U.S. tax. The U.S. delegation indicated that the Senate has been reluctant to approve such a provision in other tax conventions. However, the U.S. delegation has promised to review its position should the Senate reconsider its decision on this matter.

I would be grateful to you if you would confirm your government's commitment to resume discussions on this point should the Senate approve a provision of this kind in the interest of another country."

I have the honor to confirm the above-mentioned commitment.

Please accept, Excellency, the assurances of my highest consideration.

Robert Anderson

MOROCCO

Double Taxation: Taxes on Income

Agreement interpreting certain articles of the convention of August 1, 1977.
Effected by exchange of letters
Signed at Washington and Rabat October 25, 1979;
With note signed at Rabat April 17, 1981;
Entered into force December 30, 1981.

The Assistant Secretary for Tax Policy, Department of the Treasury, to the Moroccan Director of Tax Division, Ministry of Finance

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

October 25, 1979

Dear Mr. Medaghri:

In connection with the recently negotiated income tax convention between the Government of the United States and the Government of the Kingdom of Morocco, which was signed in Rabat on August 1, 1977,[1] certain questions have arisen with respect to which it is deemed appropriate that there be an exchange of notes regarding the agreement reached by the delegations from our two countries.

Under Article 21(2) of the Convention, for purposes of computing the appropriate amount of taxes paid to Morocco, a citizen or resident of the United States is permitted to elect to include in the Moroccan tax for which he claims a tax credit the amount he is required to invest in Moroccan equipment bonds under Article 37 of the Royal Decree No. 1.010-65 of the 8th of Ramadan 1385 (December 31, 1965), in accordance with regulations to be issued by the United States Secretary of the Treasury. Under Article 21(2), any amount which has been so claimed and which is repaid by the Government of Morocco must be treated by the United States taxpayer as a refund of Moroccan tax for the year of repayment. Under United States domestic law, when a taxpayer treats an amount as a refund of a foreign tax for which a foreign tax credit was previously claimed, he is not charged interest except to the extent interest is paid to him by the foreign government. It is our understanding that under Article 37 of Royal Decree No. 1.010-65 of the 8th of Ramadan, a taxpayer will receive payments of interest from the Moroccan Government on Moroccan equipment bonds. It is agreed by our delegations that, with respect to a United States taxpayer who elects to include an amount invested in Moroccan equipment bonds in his Moroccan tax for which foreign tax credit is claimed, any interest paid on the bonds by the Moroccan Government will belong to the United States. It is agreed, however, that Moroccan taxes may be deducted from such interest. Regulations to be issued by the Treasury department pursuant to Article 21(2) will so provide.

[1] TIAS 10194; *ante*, p. 2547.

Paragraph 1 of Article 25 of the Convention covers claims made by taxpayers of a Contracting State to one of the two tax administrations. The solutions arrived at in the course of the mutual agreement procedure provided for by paragraph 1 of Article 25 will be implemented notwithstanding the time limits in effect in the two Contracting States.

I have the honor to propose to you that the present note and your reply thereto constitute the legal interpretation of Articles 21(2) and 25(1) of the Convention.

Please accept, Mr. Director, the assurances of my highest consideration.

Donald C. Lubick
Assistant Secretary for Tax Policy

Mr. Alaoui Medaghri
Director of Tax Division
Ministry of Finance
Rabat, Morocco

The Moroccan Director of Tax Division, Ministry of Finance, to the Assistant Secretary for Tax Policy, Department of the Treasury

ROYAUME DU MAROC
KA/RZ.
MINISTERE DES FINANCES

DIVISION DES IMPOTS

RABAT, LE 25 OCT 1979

17/344 /DI

Monsieur le Directeur :

J'ai l'honneur de faire référence à votre lettre de ce jour qui stipule :

"Comme suite à la convention en matière d'impôts sur le revenu négociée récemment entre le Gouvernement des Etats-Unis et le Gouvernement du Royaume du Maroc, convention signée à Rabat le 1er Août 1977, certaines questions ayant été soulevées, il a été jugé approprié qu'elles fassent l'objet d'un échange de notes relatives à l'accord conclu par les délégations de nos deux pays.

Au titre du paragraphe 2 de l'article 21 de la Convention les ressortissants ou résidents des Etats-Unis sont autorisés, aux fins de calcul du montant approprié d'impôts acquittés au Maroc, à opter pour inclure dans l'impôt marocain pour lequel ils réclament une déduction d'impôt, le montant qu'ils sont tenus d'investir dans les bons d'équipement marocains aux termes de l'article 37 du Décret royal n° 1.001-65 du 8 Ramadan 1385 (31 décembre 1965), conformément aux réglements devant être établis par le Ministre des Finances des Etats-Unis. Au titre du paragraphe 2 de l'article 21 tout montant ayant été ainsi déduit et qui est remboursé par le Gouvernement du Maroc doit être traité par le contribuable américain comme un remboursement d'impôt marocain pour l'année du remboursement. Conformément aux dispositions de la législation nationale des Etats-Unis, lorsqu'un contribuable traite un montant comme un remboursement d'impôt étranger pour lequel une déduction d'impôt étranger a été réclamée préalablement, il n'est tenu de payer aucun intérêt sauf dans la mesure où l'intérêt lui est versé par le gouvernement étranger. Nous croyons comprendre qu'en vertu de l'article 37 du Décret royal n° 1.010-65 du 8 Ramadan, tout contribuable reçoit des intérêts du Gouvernement du Maroc sur les bons d'équipement marocains. Il est convenu par nos délégations qu'en ce qui concerne un contribuable américain qui opte pour inclure, dans le calcul de son impôt marocain, un montant investi dans les bons d'équipement marocains, pour lequel une déduction étrangère est réclamée, tout intérêt versé sur les bons par le Gouvernement marocain appartiendra aux Etats-Unis. Il est convenu toutefois que les impôts marocains peuvent être déduits desdits intérêts. Des dispositions seront stipulées dans les réglements devant être émis par le Ministère des Finances conformément au paragraphe 2 de l'article 21.

Le paragraphe 1 de l'article 25 de la Convention porte sur les requêtes faites par les contribuables d'un des Etats contractants à l'une des deux administrations fiscales. Les solutions obtenues dans le cadre de la procédure amiable prévue au paragraphe 1 de l'article 25 seront exécutoires nonobstant les délais de prescription en vigueur dans les deux Etats contractants.

J'ai l'honneur de proposer que la présente note ainsi que votre réponse y relative constituent l'interprétation légale du paragraphe 2 de l'article 21 et du paragraphe 1 de l'Article 25 de la Convention".

J'ai l'honneur de vous informer que je suis d'accord avec la teneur de votre lettre.

Veuillez agréer, Monsieur le Directeur, les assurances de ma haute considération.

Mohamed ALAOUI Kodaghri
Directeur des Impôts
Ministère des Finances

Mr. Donald C. Lubick
Assistant Secretary for Tax Policy
Department of the Treasury
Washington, D.C. 20220

TRANSLATION

ROYAUME DU MAROC

MINISTERE DES FINANCES

DIVISION DES IMPOTS

17/344/D.I.

RABAT, LE .....

October 25, 1979

Dear Mr. Lubick:

I have the honor to refer to your letter of today"s date which reads as follows :

[For the English language text, see pp. 2673-2674.]

I have the honor to propose to you that the present note and your reply thereto constitute the legal interpretation of Articles 21 (2) and 25 (1) of the Convention".

I wish to inform you that I agree with the contents of your letter.

Please accept, Mr. Director, the assurances of my highest consideration.

Alaoui Mdaghri
Director of Tax Division
Ministry of Finance

Mr. Donald C. Lubick
Assistant Secretary for Tax Policy
Department of the Treasrury
Washington, D.C. 20220

INTERPRETIVE NOTE TO ARTICLE 10, PARAGRAPH 2 (b)

With reference to the Agreement between the United States of America and the Kingdom of Morocco signed at Rabat on August 1, 1977, it is understood that the Moroccan tax on profits of Moroccan branches and establishments available for remittance to their American home offices will be subject to the limitation as is provided in Article 10, paragraph 2 (b) of this Agreement with respect to taxation of dividends distributed by subsidiaries to their parents.

Done at Rabat, April 17, 1981

For the Secretary of the Treasury of the United States of America

Mr. John Brayton Redecker
Economic Counselor of the Embassy of the United States of America

For the Minister of Finance of the Kingdom of Morocco

Mr. Medaghri Alaoui Mohamed
Director of Taxes

Modèle N° 2605

نموذج رقم 2605

ROYAUME DU MAROC

MINISTERE DES FINANCES

Division des Impôts

SERVICE
DES IMPOTS URBAINS

N° _____

OBJET

Rabat, le _____ الرباط في

المملكة المغربية

وزارة المالية

قسم الضرائب

مصلحة الضرائب الحضرية

رقم _____

الموضوع :

NOTE RELATIVE A L'INTERPRETATION
DE L'ARTICLE 10, PARAGRAPHE 2 (b)

Par référence à la Convention entre le Royaume du Maroc et les Etats Unis d'Amérique signée à Rabat le 1er Août 1977, Il est entendu que l'impôt marocain sur les profits des succursales et établissements marocains mis à la disposition de leurs sociétés mères américaines sera établi suivant la limitation prévue à l'article 10, paragraphe 2 (b) de cette Convention relatif à la taxation des dividendes distribués par les filiales aux sociétés mères.

Fait à Rabat, le 17 Avril 1981.

Pour le Ministre des Finances
du Royaume du Maroc

Mr. MEDAGHRI ALAOUI MOHAMED

Directeur des Impots

Pour le Secrétaire au Trésor
des Etats Unis d'Amérique

Mr. JOHN BRAYTON REDECKER

Conseiller aux Affaires
Economiques et Commerciales
près l'Ambassade des Etats
Unis d'Amérique au Maroc

ECUADOR

Tracking Station

Agreement amending and extending the agreement of September 18, 1975, as extended.
Effected by exchange of notes
Dated at Quito December 3 and 4, 1981;
Entered into force December 4, 1981.

The Ecuadorean Ministry of Foreign Relations to the American Embassy

REPUBLICA DEL ECUADOR
MINISTERIO DE RELACIONES EXTERIORES

Nº 69 GI/SE

-3 DIC. 1981

El Ministerio de Relaciones Exteriores saluda atentamente a la Embajada de los Estados Unidos de América y tiene a honra referirse a las conversaciones mantenidas a partir del 3 de septiembre último, - oportunidad en la cual a nombre del Gobierno de los Estados Unidos de América se informó que, después de considerar cuidadosamente los requerimientos técnicos de las misiones espaciales tanto existentes como proyectadas y frente a la no disponibilidad de fondos para la programación espacial de los Estados Unidos en su totalidad, la Administración Nacional de Aeronáutica y del Espacio de los Estados Unidos (NASA), ha decidido cerrar, en futuro cercano, la Estación para el rastreo de satélites y vehículos espaciales situada en Cotopaxi.

Al respecto, el Ministerio de Relaciones Exteriores, atento a las circunstancias señaladas en las aludidas conversaciones, considera de singular importancia, dentro del espíritu de colaboración que debe orientar las relaciones entre ambos países, concretamente expresado tanto en el Acuerdo General para la Ayuda Económica y Técnica y para propósitos afines, suscrito el 17 de abril de 1962, como en el Acuerdo sobre Cooperación en Programas en el Ecuador para Observar y Seguir el - Rumbo de Satélites y Vehículos del Espacio, firmado el 18 de septiembre de 1975, y la última extensión que de éste se hiciera hasta el 4 de di

A LA HONORABLE EMBAJADA DE LOS ESTADOS UNIDOS DE AMERICA,

C I U D A D .-

ciembre de 1981, fijar el siguiente procedimiento en base al cual se ponga término hasta el 4 de junio de 1982 a las relaciones contractuales derivadas del citado Acuerdo de 1975;

PRIMERO .- Terminación de las relaciones laborales: El Gobierno de los Estados Unidos de América asume todas las responsabilidades de conformidad con el Artículo IX del Acuerdo del 18 de septiembre de 1975.

SEGUNDO .- Asistencia Técnica para uso futuro de la Estación Cotopaxi: El Gobierno de los Estados Unidos de América, a través de NASA, ofrecerá, a su costo, asesoría técnica al Gobierno del Ecuador por conducto de los organismos nacionales que éste determine, mediante el envío de expertos en asuntos relacionados con el uso futuro de la Estación Cotopaxi, durante el período de 6 meses, esto es, del 4 de diciembre de 1981 al 4 de junio de 1982, para contribuir a la identificación y realización de programas con fines no militares definidos por los organismos ecuatorianos competentes.

TERCERO .- Infraestructura física de la Estación: El Gobierno de los Estados Unidos de América, por conducto de NASA, transferirá al Gobierno del Ecuador, a título gratuito, bienes, equipos y materiales actualmente en la Estación, para el uso futuro de la misma. El Organismo Cooperativo de los Estados Unidos, previa consulta con los Orga-

nismos ecuatorianos competentes, selecionará los equipos y materiales que el Gobierno de los Estados Unidos, por medio de su Organismo Cooperativo, pueda continuar utilizando en sus operaciones mundiales, y exportará tales bienes de acuerdo con lo previsto en el párrafo (2) del Artículo VI del Acuerdo de 1975. Tales bienes que estén disponibles por medio de la donación se enajenarán de conformidad con el mismo procedimiento de consulta.

CUARTO .- Mantenimiento de la Estación: Durante el período señalado - en el punto segundo, el Gobierno de los Estados Unidos de - América, a través de la NASA, sufragará el mantenimiento de la Estación.

El Ministerio de Relaciones Exteriores estima que de ser - aceptable este procedimiento, por parte de la Embajada de los Estados - Unidos de América, daríanse por terminadas las relaciones contractuales previstas en el Acuerdo de 1975, en base a una solución justa y equitativa, en los términos arriba señalados.

El Ministerio de Relaciones Exteriores aprovecha la oportunidad para reiterar a la Embajada de los Estados Unidos de América las seguridades de su atenta y distinguida consideración.

Quito, a -3 DIC. 1981

MINISTERIO DE RR. EE. SUBSECRETARIA GENERAL

The American Embassy to the Ecuadorean Ministry of Foreign Relations

No. 54

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Ecuador and has the honor to refer to the Ministry's Note No. 69 GM/SE dated December 3, 1981, proposing a procedure for an orderly and equitable termination of the operation by the National Aeronautics and Space Administration (NASA) of the Cotopaxi station, which states:

"The Ministry of Foreign Relations presents its compliments to the Embassy of the United States of America and has the honor to refer to conversations initiated September 3, 1981, at which time on behalf of the United States Government, the Embassy advised that after carefully considering current as well as future technical requirements of space missions and confronting the unavailability of funds for the United States space program in its entirety, NASA has decided to close, in the near future, the satellite and space vehicle tracking station at Cotopaxi.

"In that regard, the Ministry of Foreign Relations, alert to the circumstances indicated in those conversations, considers it of singular importance, within the spirit of collaboration which should guide relations between both countries, concretely expressed

in the General Agreement for Economic, Technical and Related Assistance, signed April 17, 1962,[1] as well as in the Agreement Relating to the Cooperative Program in Ecuador for the Observation and Tracking of Satellites and Space Vehicles, signed September 18, 1975, and the most recent extension of the latter until December 4, 1981,[2] to set forth the following procedure by which the contractual relationship derived from the aforementioned Agreement of 1975 shall be terminated on June 4, 1982:

"ONE.- Termination of Labor Relations: The Government of the United States of America assumes all responsibilities in conformity with Article IX of the Agreement of September 18, 1975.

"TWO.- Technical Assistance for the Future Use of the Cotopaxi Station: The Government of the United States of America, through NASA, shall offer, at its expense, technical advice to the Government of Ecuador through the national agencies which the latter may determine, by means of the sending of experts in matters relating to the future use of the Cotopaxi station, during the six-month period, that is, between December 4, 1981 and June 4, 1982, with the object of contributing to the identification and realization of programs having non-military purposes defined by the competent Ecuadorean agencies.

"THREE.- Physical Infrastructure of the Station: The Government of the United States of America, through NASA, shall transfer to the Government of Ecuador,

[1] TIAS 5003; 13 UST 425.
[2] TIAS 8282, 9942; 27 UST 1835; 32 UST 4211.

free of charge, property, equipments and material now at the station for the future use of the station. The United States Cooperating Agency, after consultation with the competent Ecuadorean agencies, will select those equipments and materials which the United States Government, through its Cooperating Agency, can continue utilizing in its worldwide operations, and will export such property in accordance with Article VI, paragraph 2, of the Agreement of 1975. Such property as may be disposable by donation shall be transfered by the same consultative procedure.

"FOUR.- Maintenance of the Station: During the period indicated in the second proviso, the Government of the United States of America, through NASA, will bear the cost of the maintenance of the Station.

"The Ministry of Foreign Relations considers that if this procedure should be acceptable to the Embassy of the United States of America, the contractual relations stipulated in the Agreement of 1975 would be considered terminated fairly and equitably on the aforementioned terms.

"The Ministry of Foreign Relations avails itself of this opportunity to renew to the Embassy of the United States the assurances of its attentive and distinguished consideration.

"Quito, December 3, 1981."

The Embassy is pleased to respond that the Government of the United States finds acceptable this procedure which shall terminate on June 4, 1982 the mutual rights and obligations of the 1975 Agreement.

The Embassy avails itself of this opportunity to renew to the Ministry the assurances of its highest consideration.

Embassy of the United States of America,

Quito, December 4, 1981.

MOROCCO

Agricultural Commodities

Agreement signed at Rabat July 3, 1981;
Entered into force July 3, 1981.
And amending agreement
Effected by exchange of letters
Signed at Rabat August 18 and 19, 1981;
Entered into force August 19, 1981.

AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF THE KINGDOM OF MOROCCO
FOR THE SALE OF AGRICULTURAL COMMODITIES
UNDER THE PUBLIC LAW 480 TITLE I[1] PROGRAM

The Government of the United States of America and the Government of Morocco agree to the sale of agricultural commodities specified below. This agreement shall consist of the Preamble and Parts I and III of the agreement signed May 17, 1976,[2] together with the following Part II:

Part II. Particular Provisions:

I. Commodity Table:

Commodity	Supply Period (U.S. Fiscal Year)	Quantity (metric tons)	Market Value (millions $)
Wheat	1981	110,000	20.0
Total		110,000	20.0

II. Payment Terms: Convertible Local Currency Credit:

A. Initial payment - None.

B. Currency use payment - None.

C. Number of installment payments - Twenty (20).

D. Payments - Approximately equal annual installments.

E. Due date of first installment payment - Five (5) years after the date of last delivery of commodities in each calendar year.

F. Initial interest rate - Three (3) percent.

G. Continuing interest rate - Four (4) percent.

III. Usual Marketing Table:

Commodity	Import Period (U.S. Fiscal Year)	Usual Marketing Requirement (metric tons)
Wheat	1981	1,170,000

[1] 68 Stat. 455; 7 U.S.C. § 1701 *et seq.*

IV. Export Limitations:

A. The export limitation period shall be U.S. fiscal year 1981, or any subsequent U.S. fiscal year during which commodities financed under this agreement are being imported or utilized.

B. For the purposes of Part I, Article III A (4) of this agreement, the commodities which may not be exported are:

For wheat -- wheat, wheat flour, rolled wheat, semolina, farina, or bulgur (or the same product under a different name).

V. Self-Help Measures:

A. The Government of Morocco agrees to undertake self-help measures to improve the production, storage, and distribution of agricultural commodities. The following self-help measures shall be implemented to contribute directly to development progress in poor rural areas and enable the poor to participate in in reasing agricultural production through small agriculture.

B. The Government of Morocco agrees to undertake the following activities and in doing so to provide adequate financial, technical, and managerial resources for their implementation.

1. Food Security

a. Develop and implement procedures for accurate identification and documentation of commodity loss and damage at discharge ports.

b. Support programs to increase grain storage capacity.

2. Improve the utilization, resistance and yields of certain strains of barley by:

a. initiating field trials and seed production plots utilizing the results of previous and ongoing research on a fairly widespread basis, principally in the southern provinces most seriously affected by the drought, and

b. strengthening the agricultural extension program in the southern provinces.

These efforts will be supported with sufficient emphasis and resources to improve seed availability for a significant portion of planting in crop year 1982.

3. Expand the efforts of the Water and Forestry Division of the Ministry of Agriculture and Agrarian Reform with a view to:

a. undertaking up to 20,000 hectares of reforestation annually, and

b. strengthening the program of soil conservation.

These efforts will be supported with sufficient budget, personnel and equipment.

VI. Economic Development Purposes for which Proceeds Accruing to Importing Country are to be Used:

A. The proceeds accruing to Morocco from the sale of commodities financed under this agreement will be used for financing the self-help measures set forth in the agreement, and for the following development sectors: Agricultural and rural development, in a manner designed to increase the access of the poor in the recipient country to an adequate, nutritious, and stable food supply.

B. In the use of proceeds for these purposes, emphasis will be placed on directly improving the lives of the poorest of the recipient country's people and their capacity to participate in the development of their country.

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present agreement.

DONE at Rabat, in duplicate, the 3rd day of July, 1981. This agreement goes into effect on the date of signature.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

Harry J. Petrequin, Jr.
Acting Director
USAID/Morocco

UNITED STATES AID MISSION TO MOROCCO
SIGNED BY
MISSION DIRECTOR
RABAT, MOROCCO

FOR THE GOVERNMENT OF
THE KINGDOM OF MOROCCO

S.E. Hassan Lukasch
Secretary General
Ministry of Finance

[AMENDING AGREEMENT]

The Director of the United States Agency for International Development to the Moroccan Minister of Agriculture and Agrarian Reform

UNITED STATES OF AMERICA
AGENCY FOR INTERNATIONAL DEVELOPMENT
RABAT, MOROCCO

United States Address :
Rabat (ID)
Department of State
Washington, D.C. 20520

العنـوان المحلي :
137 ، شارع علال بن عبد الله
صندوق البريد 120
الرباط ـ المغرب
الهاتف : 303ـ61

Adresse locale :
137, Avenue Allal Ben Abdallah
B.P. 120
Rabat, Maroc
Téléphone : 303-61

AUG 18 1981

Subject: Proposed First Amendment to PL 480 Title Accord of July 3, 1981. Increase by $5 Million to $25 Million and quantity by approximately 35,000 MT to approximately 145,000 MT

Dear Mr. Minister:

I have the honor to refer to the Agricultural Commodities Agreement signed by representatives of our two governments July 3, 1981 and to propose that in regard to Part II, particular provisions of that agreement be amended as follows:

(1) In Item I Commodity Table, please make the following changes: On lines entitled "Wheat" and "Total" under appropriate column headings, change "110,000 Dols. 20.0" to "145,000 Dols. 25.0".

All other terms and conditions of the July 3, 1981 agreement remain the same.

If the foregoing is acceptable to your government, I propose that this note, together with your affirmative reply thereto, constitute agreement between our two governments, effective the date of your reply.

Please accept, Mister Minister, this expression of my highest regards.

Harold S. Fleming
Director

His Excellency Abdelkamel Rergaya
Minister of Finance
Rabat

cc: His Excellency Abdellatif Ghissassi
Minister of Agriculture and Agrarian Reform
Mister Mohammed Brick, ONICL

The Moroccan Budget Director, Ministry of Finance, to the Director of the United States Agency for International Development

ROYAUME DU MAROC

MINISTERE DES FINANCES

DIRECTION DU BUDGET

- Equipement -

N°.147136 . . . B/1

RABAT. 19 AOUT 1981 1401 18

LE MINISTRE DES FINANCES

A FPC 3

MONSIEUR LE DIRECTEUR DE L'ADMINISTRATION
DE L'U.S.A.I.D
- R A B A T -

ACTION: A/DIR due 8/27

INFO: DIR, AG, CONT, CHRON, RF

OBJET : Premier avenant à l'accord du 3 juillet 1981 au titre de la PL 480 TITRE I.-

REFER : Votre lettre du 18 Août 1981 .-

Monsieur le Directeur,

Par correspondance rappelée en référence, vous avez bien voulu me saisir d'une proposition ayant pour objet de modifier la deuxième partie "conditions particulières", de l'accord précité comme suit :

Tableau répertoire des denrées, dans les colonnes "blé" et "total" les chiffres 110.000 TM et 20 Millions $ US sont remplacés par 145.000 TM et 25 millions $ US.

J'ai l'honneur de vous faire savoir que cette proposition recueille mon accord.

Veuillez agréer, Monsieur le Directeur, l'expression de ma parfaite considération.

P. le Ministre des Finances
Le Directeur du Budget

Signé : SEQAT Mohamed

TRANSLATION

Kingdom of Morocco
Ministry of Finance
Office of the Budget

Equipment Division

Rabat, August 19, 1981

From: The Minister of Finance

To: The Director of U.S.A.I.D.
Rabat

Subject: First Amendment to the agreement of July 3, 1981, under PL 480, Title I.

Reference: Your letter of August 18, 1981.

Sir:

In the letter in reference you have proposed that Part II,"Particular Provisions," of the aforementioned agreement be amended as follows:

Commodity table,on lines entitled "wheat" and "total" substitute the figures 145,000 MT and US$25 million for 110,000 MT and US$20 Million.

I have the honor to inform you that this proposal has my approval.

Accept, Sir, the assurances of my high consideration.

For the Minister of Finance:

Mohamed Seqat

Mohamed Seqat
Budget Director

AUSTRALIA

Tracking Stations

Agreement amending the agreement of May 29, 1980.
Effected by exchange of notes
Dated at Canberra July 21, 1981;
Entered into force July 21, 1981.

The American Embassy to the Australian Department of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 113

The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs and has the honor to refer to the Agreement concluded between the Government of the United States of America and the Government of Australia on May 29, 1980[1] concerning Space Vehicle Tracking and Communications Facilities. In accordance with the spirit of cooperation inherent in that Agreement, and with particular reference to paragraph 2(2), further discussions have been held between representatives of both countries with a view to establishing a turnaround ranging system near Alice Springs in the Northern Territory to provide precision tracking accuracy for the NASA Tracking and Data Relay Satellite System.

Accordingly, as provided for in paragraph 2(2) of the Agreement between the United States of America and Australia of May 29, 1980, the Government of the United States proposes that the list of facilities set forth in paragraph 2(1) be amended by the inclusion of the turnaround ranging system described above.

The Embassy proposes that if the foregoing proposal is acceptable to the Government of Australia, this Note and the reply of the Department of Foreign Affairs to that effect, shall constitute and evidence an Agreement between the two Governments which shall amend the Agreement of May 29, 1980 on and from the date of the Department's reply.

[1] TIAS 9781; 32 UST 1417.

The Embassy of the United States of America avails itself of this opportunity to renew to the Department of Foreign Affairs the assurances of its highest consideration.

Embassy of the United States of America,
Canberra, July 21, 1981.

The Australian Department of Foreign Affairs to the American Embassy

CH110460

The Department of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honour to refer to the Embassy's Note No. 113 of 21 July 1981 concerning a proposed amendment to the Agreement of 29 May 1980 between the Government of Australia and the Government of the United States of America concerning Space Vehicle Tracking and Communications Facilities. The Embassy's Note reads as follows:

"The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs and has the honour to refer to the Agreement concluded between the Government of the United States of America and the Government of Australia on May 29, 1980 concerning Space Vehicle Tracking and Communications Facilities. In accordance with the spirit of cooperation inherent in that Agreement, and with particular reference to paragraph 2(2), further discussions have been held between representatives of both countries with a view to establishing a turnaround ranging system near Alice Springs in the Northern Territory to provide precision tracking accuracy for the NASA Tracking and Data Relay Satellite System.

Accordingly, as provided for in paragraph 2(2) of the Agreement between the United States of America and Australia of May 29, 1980, the Government of the

United States proposes that the list of facilities set forth in paragraph 2(1) be amended by the inclusion of the turnaround ranging system described above.

The Embassy proposes that if the foregoing proposal is acceptable to the Government of Australia, this Note and the reply of the Department of Foreign Affairs to that effect, shall constitute and evidence an Agreement between the two Governments which shall amend the Agreement of May 29, 1980 on and from the date of the Department's reply.

The Embassy avails itself of this opportunity to renew to the Department of Foreign Affairs the assurances of its highest consideration."

The Department of Foreign Affairs has the honour to confirm that the proposal outlined in the Embassy's Note is acceptable to the Government of Australia and that the Embassy's Note and this reply shall together constitute an Agreement between the Government of Australia and the Government of the United States of America which shall amend the Agreement of 29 May 1980 concerning Space Vehicle Tracking and Communications Facilities on and from the date of this reply.

The Department of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

CANBERRA, A.C.T.

21 July 1981

MULTILATERAL

Patents: Protection of New Varieties of Plants

Convention done at Geneva October 23, 1978;
Entered into force November 8, 1981.

INTERNATIONAL CONVENTION FOR THE PROTECTION
OF NEW VARIETIES OF PLANTS

of December 2, 1961,

as revised at Geneva on November 10, 1972, and

on October 23, 1978

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THE CONTRACTING PARTIES,

Considering that the International Convention for the Protection of New Varieties of Plants of December 2, 1961, amended by the Additional Act of November 10, 1972, has proved a valuable instrument for international cooperation in the field of the protection of the rights of the breeders,

Reaffirming the principles contained in the Preamble to the Convention to the effect that:

(a) they are convinced of the importance attaching to the protection of new varieties of plants not only for the development of agriculture in their territory but also for safeguarding the interests of breeders,

(b) they are conscious of the special problems arising from the recognition and protection of the rights of breeders and particularly of the limitations that the requirements of the public interest may impose on the free exercise of such a right,

(c) they deem it highly desirable that these problems, to which very many States rightly attach importance, should be resolved by each of them in accordance with uniform and clearly defined principles,

Considering that the idea of protecting the rights of breeders has gained general acceptance in many States which have not yet acceded to the Convention,

Considering that certain amendments in the Convention are necessary in order to facilitate the joining of the Union by these States,

Considering that some provisions concerning the administration of the Union created by the Convention require amendment in the light of experience,

Considering that these objectives may be best achieved by a new revision of the Convention,

Have agreed as follows:

Article 1

Purpose of the Convention; Constitution of a Union; Seat of the Union

(1) The purpose of this Convention is to recognise and to ensure to the breeder of a new plant variety or to his successor in title (both hereinafter referred to as "the breeder") a right under the conditions hereinafter defined.

(2) The States parties to this Convention (hereinafter referred to as "the member States of the Union") constitute a Union for the Protection of New Varieties of Plants.

(3) The seat of the Union and its permanent organs shall be at Geneva.

Article 2

Forms of Protection

(1) Each member State of the Union may recognise the right of the breeder provided for in this Convention by the grant either of a special title of protection or of a patent. Nevertheless, a member State of the Union whose national law admits of protection under both these forms may provide only one of them for one and the same botanical genus or species.

(2) Each member State of the Union may limit the application of this Convention within a genus or species to varieties with a particular manner of reproduction or multiplication, or a certain end-use.

Article 3

National Treatment; Reciprocity

(1) Without prejudice to the rights specially provided for in this Convention, natural and legal persons resident or having their registered office in one of the member States of the Union shall, in so far as the recognition and protection of the right of the breeder are concerned, enjoy in the other member States of the Union the same treatment as is accorded or may hereafter be accorded by the respective laws of such States to their own nationals, provided that such persons comply with the conditions and formalities imposed on such nationals.

[Article 3, continued]

(2) Nationals of member States of the Union not resident or having their registered office in one of those States shall likewise enjoy the same rights provided that they fulfil such obligations as may be imposed on them for the purpose of enabling the varieties which they have bred to be examined and the multiplication of such varieties to be checked.

(3) Notwithstanding the provisions of paragraphs (1) and (2), any member State of the Union applying this Convention to a given genus or species shall be entitled to limit the benefit of the protection to the nationals of those member States of the Union which apply this Convention to that genus or species and to natural and legal persons resident or having their registered office in any of those States.

Article 4

Botanical Genera and Species Which Must or May be Protected

(1) This Convention may be applied to all botanical genera and species.

(2) The member States of the Union undertake to adopt all measures necessary for the progressive application of the provisions of this Convention to the largest possible number of botanical genera and species.

(3)(a) Each member State of the Union shall, on the entry into force of this Convention in its territory, apply the provisions of this Convention to at least five genera or species.

(b) Subsequently, each member State of the Union shall apply the said provisions to additional genera or species within the following periods from the date of the entry into force of this Convention in its territory:

(i) within three years, to at least ten genera or species in all;

(ii) within six years, to at least eighteen genera or species in all;

(iii) within eight years, to at least twenty-four genera or species in all.

(c) If a member State of the Union has limited the application of this Convention within a genus or species in accordance with the provisions of Article 2(2), that genus or species shall nevertheless, for the purposes of subparagraphs (a) and (b), be considered as one genus or species.

[Article 4, continued]

(4) At the request of any State intending to ratify, accept, approve or accede to this Convention, the Council may, in order to take account of special economic or ecological conditions prevailing in that State, decide, for the purposes of that State, to reduce the minimum numbers referred to in paragraph (3), or to extend the periods referred to in that paragraph, or to do both.

(5) At the request of any member State of the Union, the Council may, in order to take account of special difficulties encountered by that State in the fulfilment of the obligations under paragraph (3)(b), decide, for the purposes of that State, to extend the periods referred to in paragraph (3)(b).

Article 5

Rights Protected; Scope of Protection

(1) The effect of the right granted to the breeder is that his prior authorization shall be required for

- the production for purposes of commercial marketing
- the offering for sale
- the marketing

of the reproductive or vegetative propagating material, as such, of the variety.

Vegetative propagating material shall be deemed to include whole plants. The right of the breeder shall extend to ornamental plants or parts thereof normally marketed for purposes other than propagation when they are used commercially as propagating material in the production of ornamental plants or cut flowers.

(2) The authorisation given by the breeder may be made subject to such conditions as he may specify.

(3) Authorisation by the breeder shall not be required either for the utilisation of the variety as an initial source of variation for the purpose of creating other varieties or for the marketing of such varieties. Such authorisation shall be required, however, when the repeated use of the variety is necessary for the commercial production of another variety.

[Article 5, continued]

(4) Any member State of the Union may, either under its own law or by means of special agreements under Article 29, grant to breeders, in respect of certain botanical genera or species, a more extensive right than that set out in paragraph (1), extending in particular to the marketed product. A member State of the Union which grants such a right may limit the benefit of it to the nationals of member States of the Union which grant an identical right and to natural and legal persons resident or having their registered office in any of those States.

Article 6

Conditions Required for Protection

(1) The breeder shall benefit from the protection provided for in this Convention when the following conditions are satisfied:

(a) Whatever may be the origin, artificial or natural, of the initial variation from which it has resulted, the variety must be clearly distinguishable by one or more important characteristics from any other variety whose existence is a matter of common knowledge at the time when protection is applied for. Common knowledge may be established by reference to various factors such as: cultivation or marketing already in progress, entry in an official register of varieties already made or in the course of being made, inclusion in a reference collection, or precise description in a publication. The characteristics which permit a variety to be defined and distinguished must be capable of precise recognition and description.

(b) At the date on which the application for protection in a member State of the Union is filed, the variety

(i) must not--or, where the law of that State so provides, must not for longer than one year--have been offered for sale or marketed, with the agreement of the breeder, in the territory of that State, and

(ii) must not have been offered for sale or marketed, with the agreement of the breeder, in the territory of any other State for longer than six years in the case of vines, forest trees, fruit trees and ornamental trees, including, in each case, their rootstocks, or for longer than four years in the case of all other plants.

Trials of the variety not involving offering for sale or marketing shall not affect the right to protection. The fact that the variety has become a matter of common knowledge in ways other than through offering for sale or marketing shall also not affect the right of the breeder to protection.

[Article 6, continued]

(c) The variety must be sufficiently homogeneous, having regard to the particular features of its sexual reproduction or vegetative propagation.

(d) The variety must be stable in its essential characteristics, that is to say, it must remain true to its description after repeated reproduction or propagation or, where the breeder has defined a particular cycle of reproduction or multiplication, at the end of each cycle.

(e) The variety shall be given a denomination as provided in Article 13.

(2) Provided that the breeder shall have complied with the formalities provided for by the national law of the member State of the Union in which the application for protection was filed, including the payment of fees, the grant of protection may not be made subject to conditions other than those set forth above.

Article 7

Official Examination of Varieties; Provisional Protection

(1) Protection shall be granted after examination of the variety in the light of the criteria defined in Article 6. Such examination shall be appropriate to each botanical genus or species.

(2) For the purposes of such examination, the competent authorities of each member State of the Union may require the breeder to furnish all the necessary information, documents, propagating material or seeds.

(3) Any member State of the Union may provide measures to protect the breeder against abusive acts of third parties committed during the period between the filing of the application for protection and the decision thereon.

Article 8

Period of Protection

The right conferred on the breeder shall be granted for a limited period. This period may not be less than fifteen years, computed from the date of issue of the title of protection. For vines, forest trees, fruit trees and ornamental trees, including, in each case, their rootstocks, the period of protection may not be less than eighteen years, computed from the said date.

Article 9

Restrictions in the Exercise of Rights Protected

(1) The free exercise of the exclusive right accorded to the breeder may not be restricted otherwise than for reasons of public interest.

(2) When any such restriction is made in order to ensure the widespread distribution of the variety, the member State of the Union concerned shall take all measures necessary to ensure that the breeder receives equitable remuneration.

Article 10

Nullity and Forfeiture of the Rights Protected

(1) The right of the breeder shall be declared null and void, in accordance with the provisions of the national law of each member State of the Union, if it is established that the conditions laid down in Article 6(1)(a) and (b) were not effectively complied with at the time when the title of protection was issued.

(2) The right of the breeder shall become forfeit when he is no longer in a position to provide the competent authority with reproductive or propagating material capable of producing the variety with its characteristics as defined when the protection was granted.

(3) The right of the breeder may become forfeit if:

(a) after being requested to do so and within a prescribed period, he does not provide the competent authority with the reproductive or propagating material, the documents and the information deemed necessary for checking the variety, or he does not allow inspection of the measures which have been taken for the maintenance of the variety; or

(b) he has failed to pay within the prescribed period such fees as may be payable to keep his rights in force.

(4) The right of the breeder may not be annulled or become forfeit except on the grounds set out in this Article.

Article 11

Free Choice of the Member State in Which the First Application is Filed; Application in Other Member States; Independence of Protection in Different Member States

(1) The breeder may choose the member State of the Union in which he wishes to file his first application for protection.

(2) The breeder may apply to other member States of the Union for protection of his right without waiting for the issue to him of a title of protection by the member State of the Union in which he filed his first application.

(3) The protection applied for in different member States of the Union by natural or legal persons entitled to benefit under this Convention shall be independent of the protection obtained for the same variety in other States whether or not such States are members of the Union.

Article 12

Right of Priority

(1) Any breeder who has duly filed an application for protection in one of the member States of the Union shall, for the purpose of filing in the other member States of the Union, enjoy a right of priority for a period of twelve months. This period shall be computed from the date of filing of the first application. The day of filing shall not be included in such period.

(2) To benefit from the provisions of paragraph (1), the further filing must include an application for protection, a claim in respect of the priority of the first application and, within a period of three months, a copy of the documents which constitute that application, certified to be a true copy by the authority which received it.

(3) The breeder shall be allowed a period of four years after the expiration of the period of priority in which to furnish, to the member State of the Union with which he has filed an application for protection in accordance with the terms of paragraph (2), the additional documents and material required by the laws and regulations of that State. Nevertheless, that State may require the additional documents and material to be furnished within an adequate period in the case where the application whose priority is claimed is rejected or withdrawn.

[Article 12, continued]

(4) Such matters as the filing of another application or the publication or use of the subject of the application, occurring within the period provided for in paragraph (1), shall not constitute grounds for objection to an application filed in accordance with the foregoing conditions. Such matters may not give rise to any right in favour of a third party or to any right of personal possession.

Article 13

Variety Denomination

(1) The variety shall be designated by a denomination destined to be its generic designation. Each member State of the Union shall ensure that subject to paragraph (4) no rights in the designation registered as the denomination of the variety shall hamper the free use of the denomination in connection with the variety, even after the expiration of the protection.

(2) The denomination must enable the variety to be identified. It may not consist solely of figures except where this is an established practice for designating varieties. It must not be liable to mislead or to cause confusion concerning the characteristics, value or identity of the variety or the identity of the breeder. In particular, it must be different from every denomination which designates, in any member State of the Union, an existing variety of the same botanical species or of a closely related species.

(3) The denomination of the variety shall be submitted by the breeder to the authority referred to in Article 30(1)(b). If it is found that such denomination does not satisfy the requirements of paragraph (2), that authority shall refuse to register it and shall require the breeder to propose another denomination within a prescribed period. The denomination shall be registered at the same time as the title of protection is issued in accordance with the provisions of Article 7.

(4) Prior rights of third parties shall not be affected. If, by reason of a prior right, the use of the denomination of a variety is forbidden to a person who, in accordance with the provisions of paragraph (7), is obliged to use it, the authority referred to in Article 30(1)(b) shall require the breeder to submit another denomination for the variety.

(5) A variety must be submitted in member States of the Union under the same denomination. The authority referred to in Article 30(1)(b) shall register the denomination so submitted, unless it considers that denomination unsuitable in its State. In the latter case, it may require the breeder to submit another denomination.

[Article 13, continued]

(6) The authority referred to in Article 30(1)(b) shall ensure that all the other such authorities are informed of matters concerning variety denominations, in particular the submission, registration and cancellation of denominations. Any authority referred to in Article 30(1)(b) may address its observations, if any, on the registration of a denomination to the authority which communicated that denomination.

(7) Any person who, in a member State of the Union, offers for sale or markets reproductive or vegetative propagating material of a variety protected in that State shall be obliged to use the denomination of that variety, even after the expiration of the protection of that variety, in so far as, in accordance with the provisions of paragraph (4), prior rights do not prevent such use.

(8) When the variety is offered for sale or marketed, it shall be permitted to associate a trade mark, trade name or other similar indication with a registered variety denomination. If such an indication is so associated, the denomination must nevertheless be easily recognizable.

Article 14

Protection Independent of Measures Regulating Production, Certification and Marketing

(1) The right accorded to the breeder in pursuance of the provisions of this Convention shall be independent of the measures taken by each member State of the Union to regulate the production, certification and marketing of seeds and propagating material.

(2) However, such measures shall, as far as possible, avoid hindering the application of the provisions of this Convention.

Article 15

Organs of the Union

The permanent organs of the Union shall be:

(a) the Council;

(b) the Secretariat General, entitled the Office of the International Union for the Protection of New Varieties of Plants.

Article 16

Composition of the Council; Votes

(1) The Council shall consist of the representatives of the member States of the Union. Each member State of the Union shall appoint one representative to the Council and one alternate.

(2) Representatives or alternates may be accompanied by assistants or advisers.

(3) Each member State of the Union shall have one vote in the Council.

Article 17

Observers in Meetings of the Council

(1) States not members of the Union which have signed this Act shall be invited as observers to meetings of the Council.

(2) Other observers or experts may also be invited to such meetings.

Article 18

President and Vice-Presidents of the Council

(1) The Council shall elect a President and a first Vice-President from among its members. It may elect other Vice-Presidents. The first Vice-President shall take the place of the President if the latter is unable to officiate.

(2) The President shall hold office for three years.

Article 19

Sessions of the Council

(1) The Council shall meet upon convocation by its President.

(2) An ordinary session of the Council shall be held annually. In addition, the President may convene the Council at his discretion; he shall convene it, within a period of three months, if one-third of the member States of the Union so request.

Article 20

Rules of Procedure of the Council;
Administrative and Financial Regulations of the Union

The Council shall establish its rules of procedure and the administrative and financial regulations of the Union.

Article 21

Tasks of the Council

The tasks of the Council shall be to:

(a) study appropriate measures to safeguard the interests and to encourage the development of the Union;

(b) appoint the Secretary-General and, if it finds it necessary, a Vice Secretary-General and determine the terms of appointment of each;

(c) examine the annual report on the activities of the Union and lay down the programme for its future work;

(d) give to the Secretary-General, whose functions are set out in Article 23, all necessary directions for the accomplishment of the tasks of the Union;

(e) examine and approve the budget of the Union and fix the contribution of each member State of the Union in accordance with the provisions of Article 26;

(f) examine and approve the accounts presented by the Secretary-General;

(g) fix, in accordance with the provisions of Article 27, the date and place of the conferences referred to in that Article and take the measures necessary for their preparation; and

(h) in general, take all necessary decisions to ensure the efficient functioning of the Union.

Article 22

Majorities Required for Decisions of the Council

Any decision of the Council shall require a simple majority of the votes of the members present and voting, provided that any decision of the Council under Articles 4(4), 20, 21(e), 26(5)(b), 27(1), 28(3) or 32(3) shall require three-fourths of the votes of the members present and voting. Abstentions shall not be considered as votes.

Article 23

Tasks of the Office of the Union; Responsibilities of the Secretary-General; Appointment of Staff

(1) The Office of the Union shall carry out all the duties and tasks entrusted to it by the Council. It shall be under the direction of the Secretary-General.

(2) The Secretary-General shall be responsible to the Council; he shall be responsible for carrying out the decisions of the Council. He shall submit the budget for the approval of the Council and shall be responsible for its implementation. He shall make an annual report to the Council on his administration and a report on the activities and financial position of the Union.

(3) Subject to the provisions of Article 21(b), the conditions of appointment and employment of the staff necessary for the efficient performance of the tasks of the Office of the Union shall be fixed in the administrative and financial regulations referred to in Article 20.

Article 24

Legal Status

(1) The Union shall have legal personality.

(2) The Union shall enjoy on the territory of each member State of the Union, in conformity with the laws of that State, such legal capacity as may be necessary for the fulfilment of the objectives of the Union and for the exercise of its functions.

(3) The Union shall conclude a headquarters agreement with the Swiss Confederation.

Article 25

Auditing of the Accounts

The auditing of the accounts of the Union shall be effected by a member State of the Union as provided in the administrative and financial regulations referred to in Article 20. Such State shall be designated, with its agreement, by the Council.

Article 26

Finances

(1) The expenses of the Union shall be met from:

- the annual contributions of the member States of the Union;

- payments received for services rendered;

- miscellaneous receipts.

(2) (a) The share of each member State of the Union in the total amount of the annual contributions shall be determined by reference to the total expenditure to be met from the contributions of the member States of the Union and to the number of contribution units applicable to it under paragraph (3). The said share shall be computed according to paragraph (4).

(b) The number of contribution units shall be expressed in whole numbers or fractions thereof, provided that such number shall not be less than one-fifth.

(3) (a) As far as any State is concerned which is a member State of the Union on the date on which this Act enters into force with respect to that State, the number of contribution units applicable to it shall be the same as was applicable to it, immediately before the said date, according to the Convention of 1961 as amended by the Additional Act of 1972.

(b) As far as any other State is concerned, that State shall, on joining the Union, indicate, in a declaration addressed to the Secretary-General, the number of contribution units applicable to it.

[Article 26, continued]

(c) Any member State of the Union may, at any time, indicate, in a declaration addressed to the Secretary-General, a number of contribution units different from the number applicable to it under subparagraph (a) or (b). Such declaration, if made during the first six months of a calendar year, shall take effect from the beginning of the subsequent calendar year; otherwise it shall take effect from the beginning of the second calendar year which follows the year in which the declaration was made.

(4)(a) For each budgetary period, the amount corresponding to one contribution unit shall be obtained by dividing the total amount of the expenditure to be met in that period from the contributions of the member States of the Union by the total number of units applicable to those States.

(b) The amount of the contribution of each member State of the Union shall be obtained by multiplying the amount corresponding to one contribution unit by the number of contribution units applicable to that State.

(5)(a) A member State of the Union which is in arrears in the payment of its contributions may not, subject to paragraph (b), exercise its right to vote in the Council if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The suspension of the right to vote does not relieve such State of its obligations under this Convention and does not deprive it of any other rights thereunder.

(b) The Council may allow the said State to continue to exercise its right to vote if, and as long as, the Council is satisfied that the delay in payment is due to exceptional and unavoidable circumstances.

Article 27

Revision of the Convention

(1) This Convention may be revised by a conference of the member States of the Union. The convocation of such conference shall be decided by the Council.

(2) The proceedings of a conference shall be effective only if at least half of the member States of the Union are represented at it. A majority of five-sixths of the member States of the Union represented at the conference shall be required for the adoption of a revised text of the Convention.

Article 28

Languages Used by the Office
and in Meetings of the Council

(1) The English, French and German languages shall be used by the Office of the Union in carrying out its duties.

(2) Meetings of the Council and of revision conferences shall be held in the three languages.

(3) If the need arises, the Council may decide that further languages shall be used.

Article 29

Special Agreements for the Protection
of New Varieties of Plants

Member States of the Union reserve the right to conclude among themselves special agreements for the protection of new varieties of plants, in so far as such agreements do not contravene the provisions of this Convention.

Article 30

Implementation of the Convention on the Domestic
Level; Contracts on the Joint Utilisation of
Examination Services

(1) Each member State of the Union shall adopt all measures necessary for the application of this Convention; in particular, it shall:

(a) provide for appropriate legal remedies for the effective defence of the rights provided for in this Convention;

(b) set up a special authority for the protection of new varieties of plants or entrust such protection to an existing authority;

(c) ensure that the public is informed of matters concerning such protection, including as a minimum the periodical publication of the list of titles of protection issued.

[Article 30, continued]

(2) Contracts may be concluded between the competent authorities of the member States of the Union, with a view to the joint utilisation of the services of the authorities entrusted with the examination of varieties in accordance with the provisions of Article 7 and with assembling the necessary reference collections and documents.

(3) It shall be understood that, on depositing its instrument of ratification, acceptance, approval or accession, each State must be in a position, under its own domestic law, to give effect to the provisions of this Convention.

Article 31

Signature

This Act shall be open for signature by any member State of the Union and any other State which was represented in the Diplomatic Conference adopting this Act. It shall remain open for signature until October 31, 1979.

Article 32

Ratification, Acceptance or Approval; Accession

(1) Any State shall express its consent to be bound by this Act by the deposit of:

(a) its instrument of ratification, acceptance or approval, if it has signed this Act; or

(b) its instrument of accession, if it has not signed this Act.

(2) Instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General.

(3) Any State which is not a member of the Union and which has not signed this Act shall, before depositing its instrument of accession, ask the Council to advise it in respect of the conformity of its laws with the provisions of this Act. If the decision embodying the advice is positive, the instrument of accession may be deposited.

Article 33

Entry Into Force; Closing of Earlier Texts

(1) This Act shall enter into force one month after the following two conditions are fulfilled:

(a) the number of instruments of ratification, acceptance, approval or accession deposited is not less than five; and

(b) at least three of the said instruments are instruments deposited by States parties to the Convention of 1961.

(2) With respect to any State which deposits its instrument of ratification, acceptance, approval or accession after the conditions referred to in paragraph (1)(a) and (b) have been fulfilled, this Act shall enter into force one month after the deposit of the instrument of the said State.

(3) Once this Act enters into force according to paragraph (1), no State may accede to the Convention of 1961 as amended by the Additional Act of 1972.

Article 34

Relations Between States Bound by Different Texts

(1) Any member State of the Union which, on the day on which this Act enters into force with respect to that State, is bound by the Convention of 1961 as amended by the Additional Act of 1972 shall, in its relations with any other member State of the Union which is not bound by this Act, continue to apply, until the present Act enters into force also with respect to that other State, the said Convention as amended by the said Additional Act.

(2) Any member State of the Union not bound by this Act ("the former State") may declare, in a notification addressed to the Secretary-General, that it will apply the Convention of 1961 as amended by the Additional Act of 1972 in its relations with any State bound by this Act which becomes a member of the Union through ratification, acceptance or approval of or accession to this Act ("the latter State"). As from the beginning of one month after the date of any such notification and until the entry into force of this Act with respect to the former State, the former State shall apply the Convention of 1961 as amended by the Additional Act of 1972 in its relations with any such latter State, whereas any such latter State shall apply this Act in its relations with the former State.

Article 35

Communications Concerning the Genera and Species Protected; Information to be Published

(1) When depositing its instrument of ratification, acceptance or approval of or accession to this Act, each State which is not a member of the Union shall notify the Secretary-General of the list of genera and species to which, on the entry into force of this Act with respect to that State, it will apply the provisions of this Convention.

(2) The Secretary-General shall, on the basis of communications received from each member State of the Union concerned, publish information on:

(a) the extension of the application of the provisions of this Convention to additional genera and species after the entry into force of this Act with respect to that State;

(b) any use of the faculty provided for in Article 3(3);

(c) the use of any faculty granted by the Council pursuant to Article 4(4) or (5);

(d) any use of the faculty provided for in Article 5(4), first sentence, with an indication of the nature of the more extensive rights and with a specification of the genera and species to which such rights apply;

(e) any use of the faculty provided for in Article 5(4), second sentence;

(f) the fact that the law of the said State contains a provision as permitted under Article 6(1)(b)(i), and the length of the period permitted;

(g) the length of the period referred to in Article 8 if such period is longer than the fifteen years and the eighteen years, respectively, referred to in that Article.

Article 36

Territories

(1) Any State may declare in its instrument of ratification, acceptance, approval or accession, or may inform the Secretary-General by written notification any time thereafter, that this Act shall be applicable to all or part of the territories designated in the declaration or notification.

[Article 36, continued]

(2) Any State which has made such a declaration or given such a notification may, at any time, notify the Secretary-General that this Act shall cease to be applicable to all or part of such territories.

(3)(a) Any declaration made under paragraph (1) shall take effect on the same date as the ratification, acceptance, approval, or accession in the instrument of which it was included, and any notification given under that paragraph shall take effect three months after its notification by the Secretary-General.

(b) Any notification given under paragraph (2) shall take effect twelve months after its receipt by the Secretary-General.

Article 37

Exceptional Rules for Protection Under Two Forms

(1) Notwithstanding the provisions of Article 2(1), any State which, prior to the end of the period during which this Act is open for signature, provides for protection under the different forms referred to in Article 2(1) for one and the same genus or species, may continue to do so if, at the time of signing this Act or of depositing its instrument of ratification, acceptance or approval of or accession to this Act, it notifies the Secretary-General of that fact.

(2) Where, in a member State of the Union to which paragraph (1) applies, protection is sought under patent legislation, the said State may apply the patentability criteria and the period of protection of the patent legislation to the varieties protected thereunder, notwithstanding the provisions of Articles 6(1)(a) and (b) and 8.

(3) The said State may, at any time, notify the Secretary-General of the withdrawal of the notification it has given under paragraph (1). Such withdrawal shall take effect on the date which the State shall indicate in its notification of withdrawal.

Article 38

Transitional Limitation of the Requirement of Novelty

Notwithstanding the provisions of Article 6, any member State of the Union may, without thereby creating an obligation for other member States of the Union, limit the requirement of novelty laid down in that Article, with regard to varieties of recent creation existing at the date on which such State applies the provisions of this Convention for the first time to the genus or species to which such varieties belong.

Article 39

Preservation of Existing Rights

This Convention shall not affect existing rights under the national laws of member States of the Union or under agreements concluded between such States.

Article 40

Reservations

No reservations to this Convention are permitted.

Article 41

Duration and Denunciation of the Convention

(1) This Convention is of unlimited duration.

(2) Any member State of the Union may denounce this Convention by notification addressed to the Secretary-General. The Secretary-General shall promptly notify all member States of the Union of the receipt of that notification.

(3) The denunciation shall take effect at the end of the calendar year following the year in which the notification was received by the Secretary-General.

(4) The denunciation shall not affect any rights acquired in a variety by reason of this Convention prior to the date on which the denunciation becomes effective.

Article 42

Languages; Depositary Functions

(1) This Act shall be signed in a single original in the French, English and German languages, the French text prevailing in case of any discrepancy among the various texts. The original shall be deposited with the Secretary-General.

(2) The Secretary-General shall transmit two certified copies of this Act to the Governments of all States which were represented in the Diplomatic Conference that adopted it and, on request, to the Government of any other State.

[Article 42, continued]

(3) The Secretary-General shall, after consultation with the Governments of the interested States which were represented in the said Conference, establish official texts in the Arabic, Dutch, Italian, Japanese and Spanish languages and such other languages as the Council may designate.

(4) The Secretary-General shall register this Act with the Secretariat of the United Nations.

(5) The Secretary-General shall notify the Governments of the member States of the Union and of the States which, without being members of the Union, were represented in the Diplomatic Conference that adopted it of the signatures of this Act, the deposit of instruments of ratification, acceptance, approval and accession, any notification received under Articles 34(2), 36(1) and (2), 37(1) and (3) or 41(2) and any declaration made under Article 36(1).

CONVENTION INTERNATIONALE POUR LA PROTECTION

DES OBTENTIONS VEGETALES

du 2 décembre 1961

revisée à Genève le 10 novembre 1972 et

le 23 octobre 1978

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LES PARTIES CONTRACTANTES,

Considérant que la Convention internationale pour la protection des obtentions végétales du 2 décembre 1961 modifiée par l'Acte additionnel du 10 novembre 1972 s'est avérée un instrument de valeur pour la coopération internationale en matière de protection du droit des obtenteurs;

Réaffirmant les principes figurant dans le préambule de la Convention, selon lesquels :

a) elles sont convaincues de l'importance que revêt la protection des obtentions végétales tant pour le développement de l'agriculture sur leur territoire que pour la sauvegarde des intérêts des obtenteurs,

b) elles sont conscientes des problèmes particuliers que soulèvent la reconnaissance et la protection du droit de l'obtenteur et notamment des limitations que peuvent imposer au libre exercice d'un tel droit les exigences de l'intérêt public,

c) elles considèrent qu'il est hautement souhaitable que ces problèmes auxquels de très nombreux Etats accordent une légitime importance soient résolus par chacun d'eux conformément à des principes uniformes et clairement définis;

Considérant que le concept de la protection des droits des obtenteurs a pris une grande importance dans beaucoup d'Etats qui n'ont pas encore adhéré à la Convention;

Considérant que certaines modifications dans la Convention sont nécessaires pour faciliter l'adhésion de ces Etats à l'Union;

Considérant que certaines dispositions concernant l'administration de l'Union créée par la Convention doivent être amendées à la lumière de l'expérience;

Considérant que la meilleure façon d'atteindre ces objectifs est de reviser à nouveau la Convention;

Sont convenues de ce qui suit :

Article premier

Objet de la Convention; constitution d'une Union; siège de l'Union

1) La présente Convention a pour objet de reconnaître et d'assurer un droit à l'obtenteur d'une variété végétale nouvelle ou à son ayant cause (désigné ci-après par l'expression "l'obtenteur") dans des conditions définies ci-après.

2) Les Etats parties à la présente Convention (ci-après dénommés "Etats de l'Union") constituent entre eux une Union pour la protection des obtentions végétales.

3) Le siège de l'Union et de ses organes permanents est fixé à Genève.

Article 2

Formes de protection

1) Chaque Etat de l'Union peut reconnaître le droit de l'obtenteur prévu par la présente Convention par l'octroi d'un titre de protection particulier ou d'un brevet. Toutefois, un Etat de l'Union dont la législation nationale admet la protection sous ces deux formes ne doit prévoir que l'une d'elles pour un même genre ou une même espèce botanique.

2) Chaque Etat de l'Union peut limiter l'application de la présente Convention à l'intérieur d'un genre ou d'une espèce aux variétés ayant un système particulier de reproduction ou de multiplication ou une certaine utilisation finale.

Article 3

Traitement national; réciprocité

1) Les personnes physiques et morales ayant leur domicile ou siège dans un des Etats de l'Union jouissent, dans les autres Etats de l'Union, en ce qui concerne la reconnaissance et la protection du droit de l'obtenteur, du traitement que les lois respectives de ces Etats accordent ou accorderont par la suite à leur nationaux, le tout sans préjudice des droits spécialement prévus par la présente Convention et sous réserve de l'accomplissement des conditions et formalités imposées aux nationaux.

2) Les nationaux des Etats de l'Union n'ayant ni domicile ni siège dans un de ces Etats jouissent également des mêmes droits, sous réserve de satisfaire aux obligations qui peuvent leur être imposées en vue de permettre l'examen des variétés qu'ils auraient obtenues ainsi que le contrôle de leur multiplication.

[Article 3, suite]

3) Nonobstant les dispositions des paragraphes 1) et 2), tout Etat de l'Union appliquant la présente Convention à un genre ou une espèce déterminé a la faculté de limiter le bénéfice de la protection aux nationaux des Etats de l'Union qui appliquent la Convention à ce genre ou cette espèce et aux personnes physiques et morales ayant leur domicile ou siège dans un de ces Etats.

Article 4

Genres et espèces botaniques qui doivent ou peuvent être protégés

1) La présente Convention est applicable à tous les genres et espèces botaniques.

2) Les Etats de l'Union s'engagent à prendre toutes les mesures nécessaires pour appliquer progressivement les dispositions de la présente Convention au plus grand nombre de genres et espèces botaniques.

3) a) Au moment de l'entrée en vigueur de la présente Convention sur son territoire, chaque Etat de l'Union applique les dispositions de la Convention à au moins cinq genres ou espèces.

b) Chaque Etat de l'Union doit appliquer ensuite lesdites dispositions à d'autres genres ou espèces, dans les délais suivants à dater de l'entrée en vigueur de la présente Convention sur son territoire :

i) dans un délai de trois ans, à au moins dix genres ou espèces au total;

ii) dans un délai de six ans, à au moins dix-huit genres ou espèces au total;

iii) dans un délai de huit ans, à au moins vingt-quatre genres ou espèces au total.

c) Lorsqu'un Etat de l'Union limite l'application de la présente Convention à l'intérieur d'un genre ou d'une espèce conformément aux dispositions de l'article 2.2), ce genre ou cette espèce sera néanmoins considéré comme un genre ou une espèce aux fins des alinéas a) et b).

4) A la requête d'un Etat ayant l'intention de ratifier, d'accepter ou d'approuver la présente Convention ou d'adhérer à celle-ci, le Conseil peut, afin de tenir compte des conditions économiques ou écologiques particulières de cet Etat, décider, en faveur de cet Etat, de réduire les nombres minimaux prévus au paragraphe 3), de prolonger les délais prévus dans ledit paragraphe, ou de faire les deux.

[Article 4, suite]

5) A la requête d'un Etat de l'Union, le Conseil peut, afin de tenir compte des difficultés particulières rencontrées par cet Etat pour remplir les obligations prévues au paragraphe 3)b), décider, en faveur de cet Etat, de prolonger les délais prévus dans le paragraphe 3)b).

Article 5

Droits protégés; étendue de la protection

1) Le droit accordé à l'obtenteur a pour effet de soumettre à son autorisation préalable

- la production à des fins d'écoulement commercial,

- la mise en vente,

- la commercialisation

du matériel de reproduction ou de multiplication végétative, en tant que tel, de la variété.

Le matériel de multiplication végétative comprend les plantes entières. Le droit de l'obtenteur s'étend aux plantes ornementales ou parties de ces plantes normalement commercialisées à d'autres fins que la multiplication, au cas où elles seraient utilisées commercialement comme matériel de multiplication en vue de la production de plantes d'ornement ou de fleurs coupées.

2) L'obtenteur peut subordonner son autorisation à des conditions qu'il définit.

3) L'autorisation de l'obtenteur n'est pas nécessaire pour l'emploi de la variété comme source initiale de variation en vue de la création d'autres variétés, ni pour la commercialisation de celles-ci. Par contre, cette autorisation est requise lorsque l'emploi répété de la variété est nécessaire à la production commerciale d'une autre variété.

4) Chaque Etat de l'Union peut, soit dans sa propre législation, soit dans des arrangements particuliers au sens de l'article 29, accorder aux obtenteurs, pour certains genres ou espèces botaniques, un droit plus étendu que celui défini au paragraphe 1) et pouvant notamment s'étendre jusqu'au produit commercialisé. Un Etat de l'Union qui accorde un tel droit a la faculté d'en limiter le bénéfice aux nationaux des Etats de l'Union accordant un droit identique ainsi qu'aux personnes physiques ou morales ayant leur domicile ou siège dans l'un de ces Etats.

Article 6

Conditions requises pour bénéficier de la protection

1) L'obtenteur bénéficie de la protection prévue par la présente Convention lorsque les conditions suivantes sont remplies :

a) Quelle que soit l'origine, artificielle ou naturelle, de la variation initiale qui lui a donné naissance, la variété doit pouvoir être nettement distinguée par un ou plusieurs caractères importants de toute autre variété dont l'existence, au moment où la protection est demandée, est notoirement connue. Cette notoriété peut être établie par diverses références telles que : culture ou commercialisation déjà en cours, inscription sur un registre officiel de variétés effectuée ou en cours, présence dans une collection de référence ou description précise dans une publication. Les caractères permettant de définir et de distinguer une variété doivent pouvoir être reconnus et décrits avec précision.

b) A la date du dépôt de la demande de protection dans un Etat de l'Union, la variété

i) ne doit pas avoir été offerte à la vente ou commercialisée, avec l'accord de l'obtenteur, sur le territoire de cet Etat - ou, si la législation de cet Etat le prévoit, pas depuis plus d'un an - et

ii) ne doit pas avoir été offerte à la vente ou commercialisée, avec l'accord de l'obtenteur, sur le territoire de tout autre Etat depuis plus de six ans dans le cas des vignes, des arbres forestiers, des arbres fruitiers et des arbres d'ornement, y compris, dans chaque cas, leurs porte-greffes, ou depuis plus de quatre ans dans le cas des autres plantes.

Tout essai de la variété ne comportant pas d'offre à la vente ou de commercialisation n'est pas opposable au droit à la protection. Le fait que la variété est devenue notoire autrement que par l'offre à la vente ou la commercialisation n'est pas non plus opposable au droit de l'obtenteur à la protection.

c) La variété doit être suffisamment homogène, compte tenu des particularités que présente sa reproduction sexuée ou sa multiplication végétative.

d) La variété doit être stable dans ses caractères essentiels, c'est-à-dire rester conforme à sa définition, à la suite de ses reproductions ou multiplications successives, ou, lorsque l'obtenteur a défini un cycle particulier de reproductions ou de multiplications, à la fin de chaque cycle.

e) La variété doit recevoir une dénomination conformément aux dispositions de l'article 13.

2) L'octroi de la protection ne peut dépendre d'autres conditions que celles mentionnées ci-dessus, sous réserve que l'obtenteur ait satisfait aux formalités prévues par la législation nationale de l'Etat de l'Union dans lequel la demande de protection a été déposée, y compris le paiement des taxes.

Article 7

Examen officiel des variétés; protection provisoire

1) La protection est accordée après un examen de la variété en fonction des critères définis à l'article 6. Cet examen doit être approprié à chaque genre ou espèce botanique.

2) En vue de cet examen, les services compétents de chaque Etat de l'Union peuvent exiger de l'obtenteur tous renseignements, documents, plants ou semences nécessaires.

3) Tout Etat de l'Union peut prendre des mesures destinées à défendre l'obtenteur contre les agissements abusifs des tiers qui se produiraient pendant la période comprise entre le dépôt de la demande de protection et la décision la concernant.

Article 8

Durée de la protection

Le droit conféré à l'obtenteur est accordé pour une durée limitée. Celle-ci ne peut être inférieure à quinze années, à compter de la date de la délivrance du titre de protection. Pour les vignes, les arbres forestiers, les arbres fruitiers et les arbres d'ornement, y compris, dans chaque cas, leurs porte-greffes, la durée de protection ne peut être inférieure à dix-huit années, à compter de cette date.

Article 9

Limitation de l'exercice des droits protégés

1) Le libre exercice du droit exclusif accordé à l'obtenteur ne peut être limité que pour des raisons d'intérêt public.

2) Lorsque cette limitation intervient en vue d'assurer la diffusion de la variété, l'Etat de l'Union intéressé doit prendre toutes mesures nécessaires pour que l'obtenteur reçoive une rémunération équitable.

Article 10

Nullité et déchéance des droits protégés

1) Le droit de l'obtenteur est déclaré nul, en conformité des dispositions de la législation nationale de chaque Etat de l'Union, s'il est avéré que les conditions fixées à l'article 6.1)a) et b) n'étaient pas effectivement remplies lors de la délivrance du titre de protection.

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[Article 10, suite]

2) Est déchu de son droit l'obtenteur qui n'est pas en mesure de présenter à l'autorité compétente le matériel de reproduction ou de multiplication permettant d'obtenir la variété avec ses caractères tels qu'ils ont été définis au moment où la protection a été accordée.

3) Peut être déchu de son droit l'obtenteur :

a) qui ne présente pas à l'autorité compétente, dans un délai prescrit et après mise en demeure, le matériel de reproduction ou de multiplication, les documents et renseignements jugés nécessaires au contrôle de la variété, ou ne permet pas l'inspection des mesures prises en vue de la conservation de la variété;

b) qui n'a pas acquitté dans les délais prescrits les taxes dues, le cas échéant, pour le maintien en vigueur de ses droits.

4) Le droit de l'obtenteur ne peut être annulé et l'obtenteur ne peut être déchu de son droit pour d'autres motifs que ceux mentionnés au présent article.

Article 11

Libre choix de l'Etat de l'Union dans lequel la première demande est déposée; demandes dans d'autres Etats de l'Union; indépendance de la protection dans différents Etats de l'Union

1) L'obtenteur a la faculté de choisir l'Etat de l'Union dans lequel il désire déposer sa première demande de protection.

2) L'obtenteur peut demander à d'autres Etats de l'Union la protection de son droit sans attendre qu'un titre de protection lui ait été délivré par l'Etat de l'Union dans lequel la première demande a été déposée.

3) La protection demandée dans différents Etats de l'Union par des personnes physiques ou morales admises au bénéfice de la présente Convention est indépendante de la protection obtenue pour la même variété dans les autres Etats appartenant ou non à l'Union.

Article 12

Droit de priorité

1) L'obtenteur qui a régulièrement fait le dépôt d'une demande de protection dans l'un des Etats de l'Union jouit, pour effectuer le dépôt dans les autres Etats de l'Union, d'un droit de priorité pendant un délai de douze mois. Ce délai est compté à partir de la date du dépôt de la première demande. Le jour du dépôt n'est pas compris dans ce délai.

[Article 12, suite]

2) Pour bénéficier des dispositions du paragraphe 1), le nouveau dépôt doit comporter une requête en protection, la revendication de la priorité de la première demande et, dans un délai de trois mois, une copie des documents qui constituent cette demande, certifiée conforme par l'administration qui l'aura reçue.

3) L'obtenteur bénéficie d'un délai de quatre ans après l'expiration du délai de priorité pour fournir à l'Etat de l'Union, auprès duquel il a été déposé une requête en protection dans les conditions prévues au paragraphe 2), les documents complémentaires et le matériel requis par les lois et règlements de cet Etat. Toutefois, cet Etat peut exiger la fourniture dans un délai approprié des documents complémentaires et du matériel si la demande dont la priorité est revendiquée a été rejetée ou retirée.

4) Ne sont pas opposables au dépôt effectué dans les conditions ci-dessus les faits survenus dans le délai fixé au paragraphe 1), tels qu'un autre dépôt, la publication de l'objet de la demande ou son exploitation. Ces faits ne peuvent faire naître aucun droit au profit de tiers ni aucune possession personnelle.

Article 13

Dénomination de la variété

1) La variété sera désignée par une dénomination destinée à être sa désignation générique. Chaque Etat de l'Union s'assure que, sous réserve du paragraphe 4), aucun droit relatif à la désignation enregistrée comme la dénomination de la variété n'entrave la libre utilisation de la dénomination en relation avec la variété, même après l'expiration de la protection.

2) La dénomination doit permettre d'identifier la variété. Elle ne peut se composer uniquement de chiffres sauf lorsque c'est une pratique établie pour désigner des variétés. Elle ne doit pas être susceptible d'induire en erreur ou de prêter à confusion sur les caractéristiques, la valeur ou l'identité de la variété ou sur l'identité de l'obtenteur. Elle doit notamment être différente de toute dénomination qui désigne, dans l'un quelconque des Etats de l'Union, une variété préexistante de la même espèce botanique ou d'une espèce voisine.

3) La dénomination de la variété est déposée par l'obtenteur auprès du service prévu à l'article 30.1)b). S'il est avéré que cette dénomination ne répond pas aux exigences du paragraphe 2), ce service refuse de l'enregistrer et exige que l'obtenteur propose, dans un délai prescrit, une autre dénomination. La dénomination est enregistrée en même temps qu'est délivré le titre de protection conformément aux dispositions de l'article 7.

4) Il n'est pas porté atteinte aux droits antérieurs des tiers. Si, en vertu d'un droit antérieur, l'utilisation de la dénomination d'une variété est interdite à une personne qui, conformément aux dispositions du paragraphe 7), est

[Article 13, suite]

obligée de l'utiliser, le service prévu à l'article 30.1)b) exige que l'obtenteur propose une autre dénomination pour la variété.

5) Une variété ne peut être déposée dans les Etats de l'Union que sous la même dénomination. Le service prévu à l'article 30.1)b) est tenu d'enregistrer la dénomination ainsi déposée, à moins qu'il ne constate la non-convenance de cette dénomination dans son Etat. Dans ce cas, il peut exiger que l'obtenteur propose une autre dénomination.

6) Le service prévu à l'article 30.1)b) doit assurer la communication aux autres services des informations relatives aux dénominations variétales, notamment du dépôt, de l'enregistrement et de la radiation de dénominations. Tout service prévu à l'article 30.1)b) peut transmettre ses observations éventuelles sur l'enregistrement d'une dénomination au service qui a communiqué cette dénomination.

7) Celui qui, dans un des Etats de l'Union, procède à la mise en vente ou à la commercialisation du matériel de reproduction ou de multiplication végétative d'une variété protégée dans cet Etat est tenu d'utiliser la dénomination de cette variété, même après l'expiration de la protection de cette variété, pour autant que, conformément aux dispositions du paragraphe 4), des droits antérieurs ne s'opposent pas à cette utilisation.

8) Lorsqu'une variété est offerte à la vente ou commercialisée, il est permis d'associer une marque de fabrique ou de commerce, un nom commercial ou une indication similaire, à la dénomination variétale enregistrée. Si une telle indication est ainsi associée, la dénomination doit néanmoins être facilement reconnaissable.

Article 14

Protection indépendante des mesures réglementant la production, le contrôle et la commercialisation

1) Le droit reconnu à l'obtenteur selon les dispositions de la présente Convention est indépendant des mesures adoptées dans chaque Etat de l'Union en vue d'y réglementer la production, le contrôle et la commercialisation des semences et plants.

2) Toutefois, ces dernières mesures devront éviter, autant que possible, de faire obstacle à l'application des dispositions de la présente Convention.

Article 15

Organes de l'Union

Les organes permanents de l'Union sont :

a) le Conseil;

b) le Secrétariat général, dénommé Bureau de l'Union internationale pour la protection des obtentions végétales.

Article 16

Composition du Conseil; nombre de voix

1) Le Conseil est composé des représentants des Etats de l'Union. Chaque Etat de l'Union nomme un représentant au Conseil et un suppléant.

2) Les représentants ou suppléants peuvent être accompagnés d'adjoints ou de conseillers.

3) Chaque Etat de l'Union dispose d'une voix au Conseil.

Article 17

Observateurs admis aux réunions du Conseil

1) Les Etats non membres de l'Union signataires du présent Acte sont invités à titre d'observateurs aux réunions du Conseil.

2) A ces réunions peuvent également être invités d'autres observateurs ou des experts.

Article 18

Président et vice-présidents du Conseil

1) Le Conseil élit parmi ses membres un Président et un premier Vice-président. Il peut élire d'autres vice-présidents. Le premier Vice-président remplace de droit le Président en cas d'empêchement.

2) La durée du mandat du Président est de trois ans.

Article 19

Sessions du Conseil

1) Le Conseil se réunit sur convocation de son Président.

2) Il tient une session ordinaire une fois par an. En outre, le Président peut réunir le Conseil à son initiative; il doit le réunir dans un délai de trois mois quand un tiers au moins des Etats de l'Union en a fait la demande.

Article 20

Règlement intérieur du Conseil; règlement administratif et financier de l'Union

Le Conseil établit son règlement intérieur et le règlement administratif et financier de l'Union.

Article 21

Missions du Conseil

Les missions du Conseil sont les suivantes :

a) étudier les mesures propres à assurer la sauvegarde et à favoriser le développement de l'Union;

b) nommer le Secrétaire général et, s'il l'estime nécessaire, un Secrétaire général adjoint; fixer les conditions de leur engagement;

c) examiner le rapport annuel d'activité de l'Union et établir le programme des travaux futurs de celle-ci;

d) donner au Secrétaire général, dont les attributions sont fixées à l'article 23, toutes directives nécessaires à l'accomplissement des tâches de l'Union;

e) examiner et approuver le budget de l'Union et fixer, conformément aux dispositions de l'article 26, la contribution de chaque Etat de l'Union;

f) examiner et approuver les comptes présentés par le Secrétaire général;

g) fixer, conformément aux dispositions de l'article 27, la date et le lieu des conférences prévues par ledit article et prendre les mesures nécessaires à leur préparation;

h) d'une manière générale, prendre toutes décisions en vue du bon fonctionnement de l'Union.

Article 22

Majorités requises pour les décisions du Conseil

Toute décision du Conseil est prise à la majorité simple des membres présents et votants; toutefois, toute décision du Conseil en vertu des articles 4.4), 20, 21.e), 26.5)b), 27.1), 28.3) ou 32.3) est prise à la majorité des trois quarts des membres présents et votants. L'abstention n'est pas considérée comme vote.

Article 23

Missions du Bureau de l'Union; responsabilités du Secrétaire général; nomination des fonctionnaires

1) Le Bureau de l'Union exécute toutes les missions qui lui sont confiées par le Conseil. Il est dirigé par le Secrétaire général.

2) Le Secrétaire général est responsable devant le Conseil; il assure l'exécution des décisions du Conseil. Il soumet le budget à l'approbation du Conseil et en assure l'exécution. Il rend compte annuellement au Conseil de sa gestion et lui présente un rapport sur les activités et la situation financière de l'Union.

3) Sous réserve des dispositions de l'article 21.b), les conditions de nomination et d'emploi des membres du personnel nécessaire au bon fonctionnement du Bureau de l'Union sont fixées par le règlement administratif et financier prévu à l'article 20.

Article 24

Statut juridique

1) L'Union a la personnalité juridique.

2) L'Union jouit, sur le territoire de chaque Etat de l'Union, conformément aux lois de cet Etat, de la capacité juridique nécessaire pour atteindre son but et exercer ses fonctions.

3) L'Union conclut un accord de siège avec la Confédération suisse.

Article 25

Vérification des comptes

La vérification des comptes de l'Union est assurée, selon les modalités prévues dans le règlement administratif et financier visé à l'article 20, par un Etat de l'Union. Cet Etat est, avec son consentement, désigné par la Conseil.

Article 26

Finances

1) Les dépenses de l'Union sont couvertes :

- par les contributions annuelles des Etats de l'Union;

- par la rémunération de prestations de services;

- par des recettes diverses.

2) a) La part de chaque Etat de l'Union dans le montant total des contributions annuelles est déterminée par référence au montant total des dépenses à couvrir à l'aide des contributions des Etats de l'Union et au nombre d'unités de contribution qui lui est applicable aux termes du paragraphe 3). Ladite part est calculée conformément au paragraphe 4).

b) Le nombre des unités de contribution est exprimé en nombres entiers ou en fractions d'unité pourvu que ce nombre ne soit pas inférieur à un cinquième.

3) a) En ce qui concerne tout Etat faisant partie de l'Union à la date à laquelle le présent Acte entre en vigueur à l'égard de cet Etat, le nombre des unités de contribution qui lui est applicable est le même que celui qui lui était applicable, immédiatement avant ladite date, aux termes de la Convention de 1961 modifiée par l'Acte additionnel de 1972.

b) En ce qui concerne tout autre Etat, il indique au moment de son accession à l'Union, dans une déclaration adressée au Secrétaire général, le nombre d'unités de contribution qui lui est applicable.

c) Tout Etat de l'Union peut, à tout moment, indiquer, dans une déclaration adressée au Secrétaire général, un nombre d'unités de contribution différent de celui qui lui est applicable en vertu des alinéas a) ou b) ci-dessus. Si elle est faite pendant les six premiers mois d'une année civile, cette déclaration prend effet au début de l'année civile suivante; dans le cas contraire, elle prend effet au début de la deuxième année civile qui suit l'année au cours de laquelle elle est faite.

4) a) Pour chaque exercice budgétaire, le montant d'une unité de contribution est égal au montant total des dépenses à couvrir pendant cet exercice à l'aide des contributions des Etats de l'Union divisé par le nombre total d'unités applicable à à ces Etats.

b) Le montant de la contribution de chaque Etat de l'Union est égal au montant d'une unité de contribution multiplié par le nombre d'unités applicable à cet Etat.

[Article 26, suite]

5)a) Un Etat de l'Union en retard dans le paiement de ses contributions ne peut - sous réserve des dispositions du paragraphe b) - exercer son droit de vote au Conseil si le montant de son arriéré est égal ou supérieur à celui des contributions dont il est redevable pour les deux dernières années complètes écoulées. La suspension du droit de vote ne libère pas cet Etat de ses obligations et ne le prive pas des autres droits découlant de la présente Convention.

b) Le Conseil peut autoriser ledit Etat à conserver l'exercice de son droit de vote aussi longtemps qu'il estime que le retard résulte de circonstances exceptionnelles et inévitables.

Article 27

Revision de la Convention

1) La présente Convention peut être revisée par une conférence des Etats de l'Union. La convocation d'une telle conférence est décidée par le Conseil.

2) La conférence ne délibère valablement que si la moitié au moins des Etats de l'Union y sont représentés. Pour être adopté, le texte revisé de la Convention doit recueillir la majorité des cinq sixièmes des Etats de l'Union représentés à la conférence.

Article 28

Langues utilisées par le Bureau
et lors des réunions du Conseil

1) Les langues française, allemande et anglaise sont utilisées par le Bureau de l'Union dans l'accomplissement de ses missions.

2) Les réunions du Conseil ainsi que les conférences de revision se tiennent en ces trois langues.

3) Le Conseil peut décider, en tant que de besoin, que d'autres langues seront utilisées.

Article 29

Arrangements particuliers pour la
protection des obtentions végétales

Les Etats de l'Union se réservent le droit de conclure entre eux des arrangements particuliers pour la protection des obtentions végétales, pour autant que ces arrangements ne contreviennent pas aux dispositions de la présente Convention.

Article 30

Application de la Convention sur le plan national; accords particuliers pour l'utilisation en commun de services chargés de l'examen

1) Chaque Etat de l'Union prend toutes mesures nécessaires pour l'application de la présente Convention et, notamment :

a) prévoit les recours légaux appropriés permettant de défendre efficacement les droits prévus par la présente Convention;

b) établit un service spécial de la protection des obtentions végétales ou charge un service déjà existant de cette protection;

c) assure la communication au public des informations relatives à cette protection et au minimum la publication périodique de la liste des titres de protection délivrés.

2) Des accords particuliers peuvent être conclus entre les service compétents des Etats de l'Union en vue de l'utilisation en commun de services chargés de procéder à l'examen des variétés, prévu à l'article 7, et au rassemblement des collections et documents de référence nécessaires.

3) Il est entendu qu'au moment du dépôt de son instrument de ratification, d'acceptation, d'approbation ou d'adhésion, chaque Etat doit être en mesure, conformément à sa législation interne, de donner effet aux dispositions de la présente Convention.

Article 31

Signature

Le présent Acte est ouvert à la signature de tout Etat de l'Union et de tout autre Etat qui a été représenté à la Conférence diplomatique qui a adopté le présent Acte. Il est ouvert à la signature jusqu'au 31 octobre 1979.

Article 32

Ratification, acceptation ou approbation; adhésion

1) Tout Etat exprime son consentement à être lié par le présent Acte par le dépôt :

a) d'un instrument de ratification, d'acceptation ou d'approbation s'il a signé le présent Acte, ou

[Article 32, suite]

b) d'un instrument d'adhésion s'il n'a pas signé le présent Acte.

2) Les instruments de ratification, d'acceptation, d'approbation ou d'adhésion sont déposés auprès du Secrétaire général.

3) Tout Etat qui n'est pas membre de l'Union et qui n'a pas signé le présent Acte demande, avant de déposer son instrument d'adhésion, l'avis du Conseil sur la conformité de sa législation avec les dispositions du présent Acte. Si la décision faisant office d'avis est positive, l'instrument d'adhésion peut être déposé.

Article 33

Entrée en vigueur; impossibilité d'adhérer aux textes antérieurs

1) Le présent Acte entre en vigueur un mois après que les deux conditions suivantes auront été remplies :

a) le nombre des instruments de ratification, d'acceptation, d'approbation ou d'adhésion déposés est de cinq au moins;

b) trois au moins desdits instruments sont déposés par des Etats parties à la Convention de 1961.

2) A l'égard de tout Etat qui dépose son instrument de ratification, d'acceptation, d'approbation ou d'adhésion après que les conditions prévues au paragraphe 1)a) et b) aient été remplies, le présent Acte entre en vigueur un mois après le dépôt de son instrument.

3) Après l'entrée en vigueur du présent Acte conformément au paragraphe 1), aucun Etat ne peut plus adhérer à la Convention de 1961 modifiée par l'Acte additionnel de 1972.

Article 34

Relations entre Etats liés par des textes différents

1) Tout Etat de l'Union qui, à la date de l'entrée en vigueur du présent Acte à son égard, est lié par la Convention de 1961 modifiée par l'Acte additionnel de 1972 continue d'appliquer, dans ses relations avec tout autre Etat de l'Union non lié par le présent Acte, ladite Convention modifiée par ledit Acte additionnel jusqu'à ce que le présent Acte entre également en vigueur à l'égard de cet autre Etat.

[Article 34, suite]

2) Tout Etat de l'Union non lié par le présent Acte ("le premier Etat") peut déclarer, par une notification adressée au Secrétaire général, qu'il appliquera la Convention de 1961 modifiée par l'Acte additionnel de 1972 dans ses relations avec tout Etat lié par le présent Acte qui devient membre de l'Union en ratifiant, acceptant ou approuvant le présent Acte ou en adhérant à celui-ci ("le second Etat"). Dès l'expiration d'un délai d'un mois à compter de la date de cette notification et jusqu'à l'entrée en vigueur du présent Acte à son égard, le premier Etat applique la Convention de 1961 modifiée par l'Acte additionnel de 1972 dans ses relations avec le second Etat, tandis que celui-ci applique le présent Acte dans ses relations avec le premier Etat.

Article 35

Communications concernant les genres et espèces protégés; renseignements à publier

1) Au moment du dépôt de son instrument de ratification, d'acceptation ou d'approbation du présent Acte ou d'adhésion à celui-ci, chaque Etat qui n'est pas déjà membre de l'Union notifie au Secrétaire général la liste des genres et espèces auxquels il appliquera, au moment de l'entrée en vigueur du présent Acte à son égard, les dispositions de la présente Convention.

2) Le Secrétaire général publie, sur la base de communications reçues de l'Etat de l'Union concerné, des renseignements sur :

a) toute extension de l'application des dispositions de la présente Convention à d'autres genres et espèces après l'entrée en vigueur du présent Acte à son égard;

b) toute utilisation de la faculté prévue à l'article 3.3);

c) l'utilisation de toute faculté accordée par le Conseil en vertu de l'article 4.4) ou 5);

d) toute utilisation de la faculté prévue à la première phrase de l'article 5.4), en précisant la nature des droits plus étendus et en spécifiant les genres et espèces auxquels ces droits s'appliquent;

e) toute utilisation de la faculté prévue à la deuxième phrase de l'article 5.4);

f) le fait que la loi de cet Etat contient une disposition permise en vertu de l'article 6.1)b)i) et la durée du délai accordé;

g) la durée du délai visé à l'article 8, si ce délai est supérieur aux quinze années, ou dix-huit, suivant le cas, prévues par ledit article.

Article 36

Territoires

1) Tout Etat peut déclarer dans son instrument de ratification, d'acceptation, d'approbation ou d'adhésion, ou peut informer le Secrétaire général par écrit à tout moment ultérieur, que le présent Acte est applicable à tout ou partie des territoires, désignés dans la déclaration ou la notification.

2) Tout Etat qui a fait une telle déclaration ou effectué une telle notification peut, à tout moment, notifier au Secrétaire général que le présent Acte cesse d'être applicable à tout ou partie de ces territoires.

3)a) Toute déclaration faite en vertu du paragraphe 1) prend effet à la même date que la ratification, l'acceptation, l'approbation ou l'adhésion dans l'instrument de laquelle elle a été incluse, et toute notification effectuée en vertu de ce paragraphe prend effet trois mois après sa notification par le Secrétaire général.

b) Toute notification effectuée en vertu du paragraphe 2) prend effet douze mois après sa réception par le Secrétaire général.

Article 37

Dérogation pour la protection sous deux formes

1) Nonobstant les dispositions de l'article 2.1), tout Etat qui, avant l'expiration du délai pendant lequel le présent Acte est ouvert à la signature, prévoit la protection sous les différentes formes mentionnées à l'article 2.1) pour un même genre ou une même espèce peut continuer à la prévoir si, lors de la signature du présent Acte ou du dépôt de son instrument de ratification, d'acceptation ou d'approbation du présent Acte, ou d'adhésion à celui-ci, il notifie ce fait au Secrétaire général.

2) Si la protection est demandée, dans un Etat de l'Union auquel le paragraphe 1) s'applique, en vertu de la législation sur les brevets, ledit Etat peut, nonobstant les dispositions de l'article 6.1)a) et b) et de l'article 8, appliquer les critères de brevetabilité et la durée de protection de la législation sur les brevets aux variétés protégées selon cette loi.

3) Ledit Etat peut, à tout moment, notifier au Secrétaire général le retrait de sa notification faite conformément au paragraphe 1). Un tel retrait prend effet à la date indiquée par cet Etat dans sa notification de retrait.

Article 38

Limitation transitoire de l'exigence de nouveauté

Nonobstant les dispositions de l'article 6, tout Etat de l'Union a la faculté, sans qu'il en résulte d'obligation pour les autres Etats de l'Union, de limiter l'exigence de nouveauté prévue à l'article susvisé, en ce qui concerne les variétés de création récente existant au moment où ledit Etat applique pour la première fois les dispositions de la présente Convention au genre ou à l'espèce auquel de telles variétés appartiennent.

Article 39

Maintien des droits acquis

La présente Convention ne saurait porter atteinte aux droits acquis soit en vertu des législations nationales des Etats de l'Union, soit par suite d'accords intervenus entre ces Etats.

Article 40

Réserves

Aucune réserve n'est admise à la présente Convention.

Article 41

Durée et dénonciation de la Convention

1) La présente Convention est conclue sans limitation de durée.

2) Tout Etat de l'Union peut dénoncer la présente Convention par une notification adressée au Secrétaire général. Le Secrétaire général notifie sans délai la réception de cette notification à tous les Etats de l'Union.

3) La dénonciation prend effet à l'expiration de l'année civile suivant l'année dans laquelle la notification a été reçue par le Secrétaire général.

4) La dénonciation ne saurait porter atteinte aux droits acquis, à l'égard d'une variété, dans le cadre de la présente Convention avant la date à laquelle la dénonciation prend effet.

Article 42

Langues; fonctions du dépositaire

1) Le présent Acte est signé en un exemplaire original en langues française, anglaise et allemande, le texte français faisant foi en cas de différences entre les textes. Ledit exemplaire est déposé auprès du Secrétaire général.

2) Le Secrétaire général transmet deux copies certifiées conformes du présent Acte aux Gouvernements des Etats représentés à la Conférence diplomatique qui l'a adopté et au Gouvernement de tout autre Etat qui en fait la demande.

3) Le Secrétaire général établit, après consultation des Gouvernements des Etats intéressés qui étaient représentés à ladite Conférence, des textes officiels dans les langues arabe, espagnole, italienne, japonaise et néerlandaise, et dans les autres langues que le Conseil peut désigner.

4) Le Secrétaire général fait enregistrer le présent Acte auprès du Secrétariat de l'Organisation des Nations Unies.

5) Le Secrétaire général notifie aux Gouvernements des Etats de l'Union et des Etats qui, sans être membres de l'Union, étaient représentés à la Conférence qui a adopté le présent Acte, les signatures du présent Acte, le dépôt des instruments de ratification, d'acceptation, d'approbation ou d'adhésion, toute notification reçue en vertu des articles 34.2), 36.1) ou 2), 37.1) ou 3) ou 41.2) et toute déclaration faite en vertu de l'article 36.1).

INTERNATIONALES ÜBEREINKOMMEN

ZUM SCHUTZ VON PFLANZENZÜCHTUNGEN

vom 2. Dezember 1961,

revidiert in Genf am 10. November 1972

und am 23. Oktober 1978

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DIE VERTRAGSSTAATEN,

In der Erwägung, dass das Internationale Übereinkommen zum Schutz von Pflanzenzüchtungen vom 2. Dezember 1961 in der durch die Zusatzakte vom 10. November 1972 geänderten Fassung sich als wertvolles Instrument für die internationale Zusammenarbeit auf dem Gebiet des Schutzes von Züchterrechten erwiesen hat,

Erneut die in der Präambel des Übereinkommens enthaltenen Grundsätze bekräftigend, wonach

a) sie von der Bedeutung überzeugt sind, die dem Schutz neuer Pflanzensorten sowohl für die Entwicklung der Landwirtschaft in ihrem Hoheitsgebiet als auch für die Wahrung der Interessen der Züchter zukommt,

b) sie sich der besonderen Probleme, die die Zuerkennung und der Schutz des Züchterrechts aufwerfen und insbesondere der Beschränkungen, die die Erfordernisse des öffentlichen Interesses der freien Ausübung eines solchen Rechtes auferlegen können, bewusst sind,

c) sie es für höchst wünschenswert halten, dass diese Probleme, denen sehr viele Staaten berechtigte Bedeutung beimessen, von jedem dieser Staaten nach einheitlichen und klar umrissenen Grundsätzen gelöst werden,

In der Erwägung, dass der Gedanke des Schutzes von Züchterrechten grosse Bedeutung in vielen Staaten gewonnen hat, die dem Übereinkommen noch nicht beigetreten sind,

In der Erwägung, dass bestimmte Änderungen in dem Übereinkommen erforderlich sind, um diesen Staaten den Beitritt zum Verband zu erleichtern,

In der Erwägung, dass einzelne Bestimmungen über die Verwaltung des durch das Übereinkommen geschaffenen Verbands im Licht der Erfahrungen änderungsbedürftig sind,

In der Erwägung, dass diese Ziele am besten durch die erneute Revision des Übereinkommens erreicht werden können,

Haben folgendes vereinbart:

Artikel 1

Zweck des Übereinkommens; Bildung eines Verbands; Sitz des Verbands

(1) Zweck dieses Übereinkommens ist es, dem Züchter einer neuen Pflanzensorte oder seinem Rechtsnachfolger (beide im folgenden als "Züchter" bezeichnet) unter den nachstehend festgelegten Bedingungen ein Recht zuzuerkennen und zu sichern.

(2) Die Vertragsstaaten dieses Übereinkommens (im folgenden als "Verbandsstaaten" bezeichnet) bilden untereinander einen Verband zum Schutz von Pflanzenzüchtungen.

(3) Als Sitz des Verbands und seiner ständigen Organe wird Genf bestimmt.

Artikel 2

Schutzrechtsformen

(1) Jeder Verbandsstaat kann das in diesem Übereinkommen vorgesehene Züchterrecht durch die Gewährung eines besonderen Schutzrechts oder eines Patents zuerkennen. Jedoch darf ein Verbandsstaat, dessen innerstaatliches Recht den Schutz in diesen beiden Formen zulässt, nur eine von ihnen für dieselbe botanische Gattung oder Art vorsehen.

(2) Jeder Verbandsstaat kann die Anwendung dieses Übereinkommens innerhalb einer Gattung oder Art auf Sorten mit einem bestimmten Vermehrungssystem oder einer bestimmten Endnutzung beschränken.

Artikel 3

Inländerbehandlung; Gegenseitigkeit

(1) Natürliche und juristische Personen, die ihren Wohnsitz oder Sitz in einem Verbandsstaat haben, geniessen in den anderen Verbandsstaaten in bezug auf die Zuerkennung und den Schutz des Züchterrechts die Behandlung, die nach den Rechtsvorschriften dieser Staaten deren eigene Staatsangehörige gegenwärtig oder künftig geniessen, und zwar unbeschadet der in diesem Übereinkommen besonders vorgesehenen Rechte und unter dem Vorbehalt, dass sie die Bedingungen und Förmlichkeiten erfüllen, die den eigenen Staatsangehörigen auferlegt werden.

(2) Angehörige der Verbandsstaaten, die weder ihren Wohnsitz noch ihren Sitz in einem dieser Staaten haben, geniessen ebenfalls die gleichen Rechte, sofern sie den Verpflichtungen nachkommen, die ihnen gegebenenfalls auferlegt werden, um die Prüfung der von ihnen gezüchteten Sorten und die Überwachung ihrer Vermehrung zu ermöglichen.

[Artikel 3, Fortsetzung]

(3) Abweichend von den Absätzen 1 und 2 kann jeder Verbandsstaat, der dieses Übereinkommen auf eine bestimmte Gattung oder Art anwendet, den Schutz auf Angehörige von Verbandsstaaten beschränken, die dieses Übereinkommen auf die gleiche Gattung oder Art anwenden, sowie auf natürliche und juristische Personen, die ihren Wohnsitz oder Sitz in einem dieser Staaten haben.

Artikel 4

Botanische Gattungen und Arten, die geschützt werden müssen oder können

(1) Dieses Übereinkommen ist auf alle botanischen Gattungen und Arten anwendbar.

(2) Die Verbandsstaaten verpflichten sich, alle Massnahmen zu treffen, die notwendig sind, um dieses Übereinkommen allmählich auf eine möglichst grosse Anzahl von botanischen Gattungen und Arten anzuwenden.

(3)a) Jeder Verbandsstaat wendet dieses Übereinkommen, sobald es für sein Hoheitsgebiet in Kraft tritt, auf mindestens fünf Gattungen oder Arten an.

b) Später wendet jeder Verbandsstaat dieses Übereinkommen innerhalb folgender Fristen nach dessen Inkrafttreten für sein Hoheitsgebiet auf weitere Gattungen oder Arten an, und zwar

i) innerhalb von drei Jahren auf mindestens insgesamt zehn Gattungen oder Arten;

ii) innerhalb von sechs Jahren auf mindestens insgesamt achtzehn Gattungen oder Arten;

iii) innerhalb von acht Jahren auf mindestens insgesamt vierundzwanzig Gattungen oder Arten.

c) Beschränkt ein Verbandsstaat innerhalb einer Gattung oder Art die Anwendung dieses Übereinkommens gemäss Artikel 2 Absatz 2, so wird eine solche Gattung oder Art gleichwohl für die Zwecke der Buchstaben a und b als eine Gattung oder Art angesehen.

(4) Auf Antrag eines Staates, der beabsichtigt, dieses Übereinkommen zu ratifizieren, anzunehmen, zu genehmigen oder ihm beizutreten, kann der Rat, um aussergewöhnlichen wirtschaftlichen Verhältnissen oder Umweltbedingungen in diesem Staat Rechnung zu tragen, beschliessen, dass für diesen Staat die in Absatz 3 aufgeführten Mindestzahlen herabgesetzt, die dort genannten Fristen verlängert oder beide Massnahmen getroffen werden.

[Artikel 4, Fortsetzung]

(5) Auf Antrag eines Verbandsstaats kann der Rat, um besonderen Schwierigkeiten Rechnung zu tragen, denen dieser Staat sich bei Erfüllung seiner Verpflichtungen nach Absatz 3 Buchstabe b gegenübersieht, beschliessen, dass die in Absatz 3 Buchstabe b genannten Fristen für diesen Staat verlängert werden.

Artikel 5

Inhalt des Schutzrechts; Schutzumfang

(1) Das dem Züchter gewährte Recht hat die Wirkung, dass seine vorherige Zustimmung erforderlich ist, um generatives oder vegetatives Vermehrungsmaterial der Sorte als solches

- zum Zweck des gewerbsmässigen Absatzes zu erzeugen,
- feilzuhalten,
- gewerbsmässig zu vertreiben.

Zu dem vegetativen Vermehrungsmaterial gehören auch ganze Pflanzen. Das Recht des Züchters erstreckt sich auf Zierpflanzen oder deren Teile, die üblicherweise nicht zu Vermehrungszwecken gewerbsmässig vertrieben werden, falls sie als Vermehrungsmaterial zur Erzeugung von Zierpflanzen oder Schnittblumen gewerbsmässig verwendet werden.

(2) Der Züchter kann seine Zustimmung von Bedingungen abhängig machen, die er festlegt.

(3) Die Zustimmung des Züchters ist nicht erforderlich, wenn die Sorte als Ausgangsmaterial für die Schaffung weiterer Sorten verwendet wird und diese gewerbsmässig vertrieben werden. Dagegen ist die Zustimmung erforderlich, wenn die Sorte für die gewerbsmässige Erzeugung einer anderen Sorte fortlaufend verwendet werden muss.

(4) Jeder Verbandsstaat kann in seinem innerstaatlichen Recht oder in besonderen Abmachungen im Sinne des Artikels 29 den Züchtern für bestimmte botanische Gattungen oder Arten ein Recht gewähren, das über das in Absatz 1 bezeichnete hinausgeht und sich insbesondere bis auf das gewerbsmässig vertriebene Erzeugnis erstrecken kann. Ein Verbandsstaat, der ein solches Recht gewährt, kann dieses auf Angehörige der Verbandsstaaten, die ein gleiches Recht gewähren, sowie auf natürliche und juristische Personen beschränken, die ihren Wohnsitz oder Sitz in einem dieser Staaten haben.

Artikel 6

Schutzvoraussetzungen

(1) Der Züchter geniesst den in diesem Übereinkommen vorgesehenen Schutz, wenn folgende Voraussetzungen erfüllt sind:

a) Die Sorte muss sich ohne Rücksicht darauf, ob das Ausgangsmaterial, aus dem sie entstanden ist, künstlichen oder natürlichen Ursprungs ist, durch ein oder mehrere wichtige Merkmale von jeder anderen Sorte deutlich unterscheiden lassen, deren Vorhandensein im Zeitpunkt der Schutzrechtsanmeldung allgemein bekannt ist. Diese Offenkundigkeit kann auf Grund verschiedener Tatsachen festgestellt werden, beispielsweise durch bereits laufenden Anbau oder gewerbsmässigen Vertrieb, bereits erfolgte oder eingeleitete Eintragung in ein amtliches Sortenregister, Anbau in einer Vergleichssammlung oder genaue Beschreibung in einer Veröffentlichung. Die Merkmale, die es ermöglichen, eine Sorte zu bestimmen und zu unterscheiden, müssen genau erkannt und beschrieben werden können.

b) Am Tag der Einreichung der Schutzrechtsanmeldung in einem Verbandsstaat darf die Sorte

i) im Hoheitsgebiet dieses Staates noch nicht - oder, wo das Recht dieses Staates dies vorsieht, nicht seit mehr als einem Jahr - mit Zustimmung des Züchters feilgehalten oder gewerbsmässig vertrieben worden sein sowie

ii) im Hoheitsgebiet eines anderen Staates mit Zustimmung des Züchters im Fall von Reben, Wald-, Obst- und Zierbäumen jeweils einschliesslich ihrer Unterlagen noch nicht seit mehr als sechs Jahren oder im Fall von anderen Pflanzen noch nicht seit mehr als vier Jahren feilgehalten oder gewerbsmässig vertrieben worden sein.

Mit der Sorte vorgenommene Versuche, die kein Feilhalten und keinen gewerbsmässigen Vertrieb beinhalten, beeinträchtigen nicht das Recht auf Schutz. Ebensowenig wird das Recht des Züchters auf Schutz durch die Tatsache beeinträchtigt, dass die Sorte auf andere Weise als durch Feilhalten oder gewerbsmässigen Vertrieb allgemein bekannt geworden ist.

c) Die Sorte muss hinreichend homogen sein; dabei ist den Besonderheiten ihrer generativen oder vegetativen Vermehrung Rechnung zu tragen.

d) Die Sorte muss in ihren wesentlichen Merkmalen beständig sein, d.h. nach ihren aufeinanderfolgenden Vermehrungen oder, wenn der Züchter einen besonderen Vermehrungszyklus festgelegt hat, am Ende eines jeden Zyklus weiterhin ihrer Beschreibung entsprechen.

e) Die Sorte muss eine Sortenbezeichnung gemäss Artikel 13 erhalten.

(2) Die Gewährung des Schutzes darf nur von den vorstehenden Voraussetzungen

[Artikel 6, Fortsetzung]

abhängig gemacht werden; der Züchter muss jedoch den Förmlichkeiten, die im innerstaatlichen Recht des Verbandsstaats, in dem die Schutzrechtsanmeldung eingereicht wurde, vorgesehen sind, einschliesslich der Zahlung der Gebühren genügt haben.

Artikel 7

Amtliche Prüfung von Sorten; vorläufiger Schutz

(1) Der Schutz wird nach einer Prüfung der Sorte auf die in Artikel 6 festgelegten Voraussetzungen gewährt. Diese Prüfung muss der einzelnen botanischen Gattung oder Art angemessen sein.

(2) Für die Prüfung können die zuständigen Behörden eines jeden Verbandsstaats von dem Züchter alle notwendigen Auskünfte und Unterlagen sowie das erforderliche Pflanz- oder Saatgut verlangen.

(3) Jeder Verbandsstaat kann Massnahmen zum Schutz des Züchters gegen missbräuchliches Verhalten Dritter, das in der Zeit von der Einreichung der Schutzrechtsanmeldung bis zur Entscheidung hierüber begangen worden ist, treffen.

Artikel 8

Schutzdauer

Das dem Züchter gewährte Recht wird für eine begrenzte Zeitdauer erteilt. Diese darf nicht kürzer sein als fünfzehn Jahre, vom Tag der Erteilung des Schutzrechts an gerechnet. Für Reben, Wald-, Obst- und Zierbäume jeweils einschliesslich ihrer Unterlagen darf die Schutzdauer nicht kürzer sein als achtzehn Jahre, von diesem Zeitpunkt an gerechnet.

Artikel 9

Beschränkungen in der Ausübung des Züchterrechts

(1) Die freie Ausübung des dem Züchter gewährten ausschliesslichen Rechts darf nur aus Gründen des öffentlichen Interesses beschränkt werden.

(2) Erfolgt diese Beschränkung zu dem Zweck, die Verbreitung der Sorte sicherzustellen, so hat der betreffende Verbandsstaat alle notwendigen Massnahmen zu treffen, damit der Züchter eine angemessene Vergütung erhält.

Artikel 10

Nichtigkeit und Aufhebung
des Züchterrechts

(1) Das Recht des Züchters wird nach Massgabe des innerstaatlichen Rechtes eines jeden Verbandsstaats für nichtig erklärt, wenn sich herausstellt, dass die in Artikel 6 Absatz 1 Buchstaben a und b festgelegten Voraussetzungen bei der Erteilung des Schutzrechts tatsächlich nicht erfüllt waren.

(2) Das Recht des Züchters wird aufgehoben, wenn er nicht in der Lage ist, der zuständigen Behörde das Vermehrungsmaterial vorzulegen, das es gestattet, die Sorte mit den im Zeitpunkt der Schutzerteilung für sie festgelegten Merkmalen zu erstellen.

(3) Das Recht des Züchters kann aufgehoben werden,

a) wenn er der zuständigen Behörde innerhalb einer vorgeschriebenen Frist und nach Mahnung das Vermehrungsmaterial, die Unterlagen und die Auskünfte, die zur Überwachung der Sorte für notwendig erachtet werden, nicht vorlegt oder wenn er die Nachprüfung der zur Erhaltung der Sorte getroffenen Massnahmen nicht gestattet;

b) wenn er nicht innerhalb der vorgeschriebenen Frist die Gebühren entrichtet hat, die gegebenenfalls für die Aufrechterhaltung seiner Rechte zu zahlen sind.

(4) Aus anderen als den in diesem Artikel aufgeführten Gründen kann das Recht des Züchters weder für nichtig erklärt noch aufgehoben werden.

Artikel 11

Freie Wahl des Verbandsstaats, in dem die erste Anmeldung
eingereicht wird; Anmeldungen in anderen Verbandsstaaten;
Unabhängigkeit des Schutzes in verschiedenen Verbandsstaaten

(1) Der Züchter kann den Verbandsstaat wählen, in dem er die erste Schutzrechtsanmeldung einreichen will.

(2) Der Züchter kann den Schutz seines Rechtes in anderen Verbandsstaaten beantragen, ohne abzuwarten, bis ihm der Verbandsstaat der ersten Anmeldung ein Schutzrecht erteilt hat.

(3) Der Schutz, der in verschiedenen Verbandsstaaten von natürlichen oder juristischen Personen beantragt wird, die sich auf dieses Übereinkommen berufen können, ist unabhängig von dem Schutz, der für dieselbe Sorte in anderen Verbandsstaaten oder in Nichtverbandsstaaten erlangt worden ist.

Artikel 12

Priorität

(1) Hat der Züchter eine Schutzrechtsanmeldung in einem der Verbandsstaaten vorschriftsmässig eingereicht, so geniesst er für die Einreichung in den anderen Verbandsstaaten während einer Frist von zwölf Monaten ein Prioritätsrecht. Diese Frist beginnt mit dem Zeitpunkt der Einreichung der ersten Anmeldung. Der Tag der Einreichung wird nicht in die Frist eingerechnet.

(2) Absatz 1 ist zugunsten der neuen Einreichung nur anwendbar, wenn diese einen Schutzrechtsantrag und die Beanspruchung der Priorität der ersten Anmeldung enthält und wenn binnen drei Monaten die Unterlagen, aus denen diese Anmeldung besteht, abschriftlich vorgelegt werden; die Abschriften müssen von der Behörde beglaubigt sein, welche diese Anmeldung entgegengenommen hat.

(3) Dem Züchter steht eine Frist von vier Jahren nach Ablauf der Prioritätsfrist zur Verfügung, um dem Verbandsstaat, bei dem ein Schutzrechtsantrag nach Massgabe des Absatzes 2 eingereicht worden ist, die nach den Gesetzen und sonstigen Vorschriften dieses Staates erforderlichen ergänzenden Unterlagen und das erforderliche Material vorzulegen. Jedoch kann dieser Staat die Vorlage der ergänzenden Unterlagen und des vorzulegenden Materials innerhalb einer angemessenen Frist anfordern, wenn die Anmeldung, deren Priorität in Anspruch genommen wird, zurückgewiesen oder zurückgenommen worden ist.

(4) Einer unter den obigen Bedingungen vorgenommenen Anmeldung können Tatsachen nicht entgegengehalten werden, die innerhalb der Frist des Absatzes 1 eingetreten sind, wie etwa eine andere Anmeldung, die Veröffentlichung des Gegenstands der Anmeldung oder seine Benutzung. Diese Tatsachen können kein Recht zugunsten Dritter und kein persönliches Besitzrecht begründen.

Artikel 13

Sortenbezeichnung

(1) Die Sorte ist mit einer Sortenbezeichnung als Gattungsbezeichnung zu kennzeichnen. Jeder Verbandsstaat stellt sicher, dass, vorbehaltlich des Absatzes 4, keine Rechte an der Bezeichnung, die als Sortenbezeichnung eingetragen ist, den freien Gebrauch der Bezeichnung in Verbindung mit der Sorte einschränken, auch nicht nach Ablauf des Schutzes.

(2) Die Sortenbezeichnung muss die Identifizierung der Sorte ermöglichen. Sie darf nicht ausschliesslich aus Zahlen bestehen, ausser soweit dies eine feststehende Praxis für die Kennzeichnung von Sorten ist. Sie darf nicht geeignet sein, hinsichtlich der Merkmale, des Wertes oder der Identität der Sorte oder der Identität des Züchters irrezuführen oder Verwechslungen hervorzurufen. Sie muss sich insbesondere von jeder Sortenbezeichnung unterscheiden, die in einem der Verbandsstaaten eine bereits vorhandene Sorte derselben botanischen Art oder einer verwandten Art kennzeichnet.

[Artikel 13, Fortsetzung]

(3) Die Sortenbezeichnung wird von dem Züchter bei der in Artikel 30 Absatz 1 Buchstabe b vorgesehenen Behörde hinterlegt. Stellt sich heraus, dass diese Bezeichnung den Erfordernissen des Absatzes 2 nicht entspricht, so verweigert diese Behörde die Eintragung und verlangt von dem Züchter, dass er innerhalb einer vorgeschriebenen Frist eine andere Sortenbezeichnung vorschlägt. Die Sortenbezeichnung wird gleichzeitig mit der Erteilung des Schutzrechts gemäss Artikel 7 eingetragen.

(4) Ältere Rechte Dritter bleiben unberührt. Wird die Benutzung der Sortenbezeichnung einer Person, die gemäss Absatz 7 zu ihrer Benutzung verpflichtet ist, auf Grund eines älteren Rechtes untersagt, so verlangt die in Artikel 30 Absatz 1 Buchstabe b vorgesehene Behörde, dass der Züchter eine andere Sortenbezeichnung vorschlägt.

(5) Eine Sorte darf in den Verbandsstaaten nur unter derselben Sortenbezeichnung angemeldet werden. Die in Artikel 30 Absatz 1 Buchstabe b vorgesehene Behörde ist verpflichtet, die so hinterlegte Sortenbezeichnung einzutragen, sofern sie nicht feststellt, dass diese Sortenbezeichnung in ihrem Staat ungeeignet ist. In diesem Fall kann sie verlangen, dass der Züchter eine andere Sortenbezeichnung vorschlägt.

(6) Die in Artikel 30 Absatz 1 Buchstabe b vorgesehene Behörde stellt sicher, dass alle anderen Behörden über Angelegenheiten, die Sortenbezeichnungen betreffen, insbesondere über die Einreichung, Eintragung und Streichung von Sortenbezeichnungen, unterrichtet werden. Jede in Artikel 30 Absatz 1 Buchstabe b vorgesehene Behörde kann der Behörde, die eine Sortenbezeichnung mitgeteilt hat, etwaige Bemerkungen zu der Eintragung dieser Sortenbezeichnung zugehen lassen.

(7) Wer in einem Verbandsstaat Vermehrungsmaterial einer in diesem Staat geschützten Sorte feilhält oder gewerbsmässig vertreibt, ist verpflichtet, die Sortenbezeichnung auch nach Ablauf des Schutzes dieser Sorte zu benutzen, sofern nicht gemäss Absatz 4 ältere Rechte dieser Benutzung entgegenstehen.

(8) Beim Feilhalten oder bei dem gewerbsmässigen Vertrieb der Sorte darf eine Fabrik- oder Handelsmarke, eine Handelsbezeichnung oder eine andere ähnliche Angabe der eingetragenen Sortenbezeichnung hinzugefügt werden. Auch wenn eine solche Angabe hinzugefügt wird, muss die Sortenbezeichnung leicht erkennbar sein.

Artikel 14

Unabhängigkeit des Schutzes von Massnahmen zur Regelung der Erzeugung, der Überwachung und des gewerbsmässigen Vertriebs

(1) Das dem Züchter nach diesem Übereinkommen gewährte Recht ist unabhängig von den Massnahmen, die in jedem Verbandsstaat zur Regelung der Erzeugung, der Überwachung und des gewerbsmässigen Vertriebs von Saat- und Pflanzgut getroffen werden.

(2) Jedoch muss bei diesen Massnahmen soweit wie möglich vermieden werden, dass die Anwendung dieses Übereinkommens behindert wird.

Artikel 15

Organe des Verbands

Die ständigen Organe des Verbands sind:

a) der Rat;

b) das Generalsekretariat, das als Büro des Internationalen Verbands zum Schutz von Pflanzenzüchtungen bezeichnet wird.

Artikel 16

Zusammensetzung des Rates;
Abstimmungen

(1) Der Rat besteht aus den Vertretern der Verbandsstaaten. Jeder Verbandsstaat ernennt einen Vertreter für den Rat und einen Stellvertreter.

(2) Den Vertretern oder Stellvertretern können Mitarbeiter oder Berater zur Seite stehen.

(3) Jeder Verbandsstaat hat im Rat eine Stimme.

Artikel 17

Beobachter in Sitzungen des Rates

(1) Staaten, die nicht Mitglieder des Verbands sind und diese Akte unterzeichnet haben, werden als Beobachter zu den Sitzungen des Rates eingeladen.

(2) Zu diesen Sitzungen können auch andere Beobachter oder Sachverständige eingeladen werden.

Artikel 18

Präsident und Vizepräsidenten des Rates

(1) Der Rat wählt aus seiner Mitte einen Präsidenten und einen Ersten Vizepräsidenten. Er kann weitere Vizepräsidenten wählen. Der Erste Vizepräsident vertritt von Rechts wegen den Präsidenten bei Verhinderungen.

(2) Die Amtszeit des Präsidenten beträgt drei Jahre.

Artikel 19

Tagungen des Rates

(1) Der Rat tritt auf Einberufung durch seinen Präsidenten zusammen.

(2) Er hält einmal jährlich eine ordentliche Tagung ab. Ausserdem kann der Präsident von sich aus den Rat einberufen; er hat ihn binnen drei Monaten einzuberufen, wenn mindestens ein Drittel der Verbandsstaaten dies beantragt.

Artikel 20

Geschäftsordnung des Rates; Verwaltungs- und Finanzordnung des Verbands

Der Rat legt seine Geschäftsordnung sowie die Verwaltungs- und Finanzordnung des Verbands fest.

Artikel 21

Aufgaben des Rates

Der Rat hat folgende Aufgaben:

a) Er prüft Massnahmen, die geeignet sind, den Bestand des Verbands sicherzustellen und seine Entwicklung zu fördern.

b) Er ernennt den Generalsekretär und, falls er dies für erforderlich hält, einen Stellvertretenden Generalsekretär und setzt die Einstellungsbedingungen von beiden fest.

c) Er prüft den jährlichen Bericht über die Tätigkeit des Verbands und stellt das Programm für dessen künftige Arbeit auf.

d) Er erteilt dem Generalsekretär, dessen Befugnisse in Artikel 23 festgelegt sind, alle erforderlichen Richtlinien für die Durchführung der Aufgaben des Verbands.

e) Er prüft und genehmigt den Haushaltsplan des Verbands und setzt gemäss Artikel 26 den Beitrag eines jeden Verbandsstaats fest.

f) Er prüft und genehmigt die von dem Generalsekretär vorgelegten Abrechnungen.

g) Er bestimmt gemäss Artikel 27 den Zeitpunkt und den Ort der dort vorgesehenen Konferenzen und trifft die zu ihrer Vorbereitung erforderlichen Massnahmen.

[Artikel 21, Fortsetzung]

h) Ganz allgemein fasst er alle Beschlüsse für ein erfolgreiches Wirken des Verbands.

Artikel 22

Erforderliche Mehrheiten für die Beschlüsse des Rates

Ein Beschluss des Rates bedarf der einfachen Mehrheit der anwesenden und abstimmenden Mitglieder; jedoch bedarf ein Beschluss des Rates nach Artikel 4 Absatz 4, Artikel 20, Artikel 21 Buchstabe e, Artikel 26 Absatz 5 Buchstabe b, Artikel 27 Absatz 1, Artikel 28 Absatz 3 und Artikel 32 Absatz 3 einer Dreiviertelmehrheit der anwesenden und abstimmenden Mitglieder. Enthaltungen gelten nicht als Stimmabgabe.

Artikel 23

Aufgaben des Verbandsbüros; Verantwortung des Generalsekretärs; Ernennung der Bediensteten

(1) Das Verbandsbüro erledigt alle Aufgaben, die ihm der Rat zuweist. Es wird vom Generalsekretär geleitet.

(2) Der Generalsekretär ist dem Rat verantwortlich; er sorgt für die Ausführung der Beschlüsse des Rates. Er legt dem Rat den Haushaltsplan zur Genehmigung vor und sorgt für dessen Ausführung. Er legt dem Rat alljährlich Rechenschaft über seine Geschäftsführung ab und unterbreitet ihm einen Bericht über die Tätigkeit und die Finanzlage des Verbands.

(3) Vorbehaltlich des Artikels 21 Buchstabe b werden die Bedingungen für die Einstellung und Beschäftigung des für die ordnungsgemässe Erfüllung der Aufgaben des Verbandsbüros erforderlichen Personals in der in Artikel 20 bezeichneten Verwaltungs- und Finanzordnung festgelegt.

Artikel 24

Rechts- und Geschäftsfähigkeit

(1) Der Verband besitzt Rechtspersönlichkeit.

(2) Der Verband geniesst im Hoheitsgebiet jedes Verbandsstaats gemäss den Gesetzen dieses Staates die zur Erreichung seines Zweckes und zur Wahrnehmung seiner Aufgaben erforderliche Rechts- und Geschäftsfähigkeit.

(3) Der Verband schliesst mit der Schweizerischen Eidgenossenschaft ein Abkommen über den Sitz.

Artikel 25

Rechnungsprüfung

Die Rechnungsprüfung des Verbands wird nach Massgabe der in Artikel 20 bezeichneten Verwaltungs- und Finanzordnung von einem Verbandsstaat durchgeführt. Dieser Staat wird mit seiner Zustimmung vom Rat bestimmt.

Artikel 26

Finanzen

(1) Die Ausgaben des Verbands werden gedeckt aus

- den Jahresbeiträgen der Verbandsstaaten,
- der Vergütung für Dienstleistungen,
- sonstigen Einnahmen.

(2)a) Der Anteil jedes Verbandsstaats an dem Gesamtbetrag der Jahresbeiträge richtet sich nach dem Gesamtbetrag der Ausgaben, die durch Beiträge der Verbandsstaaten zu decken sind, und nach der Anzahl der für diesen Verbandsstaat nach Absatz 3 massgebenden Zahl von Beitragseinheiten. Dieser Anteil wird nach Absatz 4 berechnet.

b) Die Zahl der Beitragseinheiten wird in ganzen Zahlen oder Bruchteilen hiervon ausgedrückt, wobei sie nicht kleiner als ein Fünftel sein darf.

(3)a) Für jeden Staat, der zum Zeitpunkt des Inkrafttretens dieser Akte dem Verband angehört, ist die Zahl der für ihn massgebenden Beitragseinheiten gleich der Zahl der für ihn unmittelbar vor diesem Zeitpunkt nach dem Übereinkommen von 1961 in der durch die Zusatzakte von 1972 geänderten Fassung massgebenden Einheiten.

b) Jeder andere Staat gibt bei seinem Beitritt zum Verband in einer an den Generalsekretär gerichteten Erklärung die für ihn massgebende Zahl von Beitragseinheiten an.

c) Jeder Verbandsstaat kann jederzeit in einer an den Generalsekretär gerichteten Erklärung eine andere als die für ihn nach den Buchstaben a oder b massgebende Zahl von Beitragseinheiten angeben. Wird eine solche Erklärung während der ersten sechs Monate eines Kalenderjahrs abgegeben, so wird sie zum Beginn des folgenden Kalenderjahrs wirksam; andernfalls wird die Erklärung zum Beginn des zweiten Kalenderjahrs wirksam, das auf das Jahr folgt, in dem sie abgegeben wurde.

(4)a) Für jede Haushaltsperiode wird der Betrag, der einer Beitragseinheit entspricht, dadurch ermittelt, dass der Gesamtbetrag der Ausgaben, die in dieser Periode aus Beiträgen der Verbandsstaaten zu decken sind, durch die Gesamtzahl der von diesen Staaten aufzubringenden Einheiten geteilt wird.

[Artikel 26, Fortsetzung]

b) Der Betrag des Beitrags jedes Verbandsstaats ergibt sich aus dem mit der Zahl der für diesen Staat massgebenden Beitragseinheiten vervielfachten Betrag einer Beitragseinheit.

(5) a) Ein Verbandsstaat, der mit der Zahlung seiner Beiträge im Rückstand ist, kann vorbehaltlich des Buchstabens b sein Stimmrecht im Rat nicht ausüben, wenn der rückständige Betrag die Summe der von ihm für die zwei vorhergehenden vollen Jahre geschuldeten Beiträge erreicht oder übersteigt. Die Aussetzung des Stimmrechts entbindet diesen Staat nicht von den sich aus diesem Übereinkommen ergebenden Pflichten und führt nicht zum Verlust der anderen sich aus dem Übereinkommen ergebenden Rechte.

b) Der Rat kann einem solchen Staat jedoch gestatten, sein Stimmrecht weiter auszuüben, wenn und solange der Rat überzeugt ist, dass der Zahlungsrückstand eine Folge aussergewöhnlicher und unabwendbarer Umstände ist.

Artikel 27

Revision des Übereinkommens

(1) Dieses Übereinkommen kann von einer Konferenz der Verbandsstaaten revidiert werden. Die Einberufung einer solchen Konferenz wird vom Rat beschlossen.

(2) Die Konferenz ist nur dann beschlussfähig, wenn mindestens die Hälfte der Verbandsstaaten auf ihr vertreten ist. Die revidierte Fassung des Übereinkommens bedarf zu ihrer Annahme der Fünfsechstelmehrheit der auf der Konferenz vertretenen Verbandsstaaten.

Artikel 28

Vom Büro und in Sitzungen des Rates benutzte Sprachen

(1) Das Verbandsbüro bedient sich bei der Erfüllung seiner Aufgaben der deutschen, der englischen und der französischen Sprache.

(2) Die Sitzungen des Rates und die Revisionskonferenzen werden in diesen drei Sprachen abgehalten.

(3) Der Rat kann, soweit hierfür ein Bedürfnis besteht, die Benutzung weiterer Sprachen beschliessen.

Artikel 29

Besondere Abmachungen zum Schutz von Pflanzenzüchtungen

Die Verbandsstaaten behalten sich das Recht vor, untereinander zum Schutz von Pflanzenzüchtungen besondere Abmachungen zu treffen, soweit diese Abmachungen diesem Übereinkommen nicht zuwiderlaufen.

Artikel 30

Anwendung des Übereinkommens im innerstaatlichen Bereich; Vereinbarungen über die gemeinsame Inanspruchnahme von Prüfungsstellen

(1) Jeder Verbandsstaat trifft alle für die Anwendung dieses Übereinkommens notwendigen Massnahmen, insbesondere

a) sieht er geeignete Rechtsmittel vor, die eine wirksame Wahrung der in diesem Übereinkommen vorgesehenen Rechte ermöglichen;

b) richtet er eine besondere Behörde für den Schutz von Pflanzenzüchtungen ein oder beauftragt eine bereits bestehende Behörde mit diesem Schutz;

c) stellt er die öffentliche Bekanntmachung von Mitteilungen über diesen Schutz, zumindest die periodische Veröffentlichung des Verzeichnisses der erteilten Schutzrechte, sicher.

(2) Zwischen den zuständigen Behörden der Verbandsstaaten können Vereinbarungen zum Zweck der gemeinsamen Inanspruchnahme von Stellen getroffen werden, welche die in Artikel 7 vorgesehene Prüfung der Sorten und die Zusammenstellung der erforderlichen Vergleichssammlungen und -unterlagen durchzuführen haben.

(3) Es besteht Einverständnis darüber, dass jeder Staat bei Hinterlegung seiner Ratifikations-, Annahme-, Genehmigungs- oder Beitrittsurkunde entsprechend seinem innerstaatlichen Recht in der Lage sein muss, diesem Übereinkommen Wirkung zu verleihen.

Artikel 31

Unterzeichnung

Diese Akte wird für jeden Verbandsstaat und für jeden anderen Staat zur Unterzeichnung aufgelegt, der auf der Diplomatischen Konferenz, welche diese Akte angenommen hat, vertreten war. Sie liegt bis zum 31. Oktober 1979 zur Unterzeichnung auf.

Artikel 32

Ratifikation, Annahme oder Genehmigung; Beitritt

(1) Jeder Staat bringt seine Zustimmung, durch diese Akte gebunden zu sein, dadurch zum Ausdruck, dass er

a) eine Ratifikations-, Annahme- oder Genehmigungsurkunde hinterlegt, sofern er diese Akte unterzeichnet hat, oder

b) eine Beitrittsurkunde hinterlegt, sofern er diese Akte nicht unterzeichnet hat.

(2) Die Ratifikations-, Annahme-, Genehmigungs- oder Beitrittsurkunden werden beim Generalsekretär hinterlegt.

(3) Jeder Staat, der dem Verband nicht angehört und diese Akte nicht unterzeichnet hat, ersucht vor Hinterlegung seiner Beitrittsurkunde den Rat um Stellungnahme, ob seine Gesetze mit dieser Akte vereinbar sind. Ist der die Stellungnahme beinhaltende Beschluss positiv, so kann die Beitrittsurkunde hinterlegt werden.

Artikel 33

Inkrafttreten; Unmöglichkeit, früheren Fassungen beizutreten

(1) Diese Akte tritt einen Monat nach dem Zeitpunkt in Kraft, zu dem die folgenden Bedingungen erfüllt sind:

a) Die Zahl der hinterlegten Ratifikations-, Annahme-, Genehmigungs- oder Beitrittsurkunden beträgt mindestens fünf;

b) mindestens drei der genannten Urkunden sind von Vertragsstaaten des Übereinkommens von 1961 hinterlegt worden.

(2) Für jeden Staat, der seine Ratifikations-, Annahme-, Genehmigungs- oder Beitrittsurkunde hinterlegt, nachdem die in Absatz 1 Buchstaben a und b genannten Bedingungen erfüllt sind, tritt diese Akte einen Monat nach dem Zeitpunkt in Kraft, zu dem die Urkunde dieses Staates hinterlegt worden ist.

(3) Nach dem Inkrafttreten dieser Akte gemäss Absatz 1 kann ein Staat dem Übereinkommen von 1961 in der durch die Zusatzakte von 1972 geänderten Fassung nicht mehr beitreten.

Artikel 34

Beziehungen zwischen Staaten, die durch unterschiedliche Fassungen gebunden sind

(1) Ein Verbandsstaat, der an dem Tag, an dem diese Akte für ihn in Kraft tritt, durch das Übereinkommen von 1961 in der durch die Zusatzakte von 1972 geänderten Fassung gebunden ist, wendet in seinen Beziehungen zu jedem anderen Verbandsstaat, der nicht durch diese Akte gebunden ist, weiterhin das genannte Übereinkommen in der durch die Zusatzakte geänderten Fassung an, bis diese Akte auch für diesen anderen Staat in Kraft tritt.

(2) Ein Verbandsstaat, der nicht durch die vorliegende Akte gebunden ist, ("erstgenannter Staat"), kann durch eine an den Generalsekretär gerichtete Notifikation erklären, dass er das Übereinkommen von 1961 in der durch die Zusatzakte von 1972 geänderten Fassung in seinen Beziehungen zu jedem durch diese Akte gebundenen Staat anwenden wird, der Verbandsstaat wird, indem er diese Akte ratifiziert, annimmt, genehmigt oder ihr beitritt ("letztgenannter Staat"). Während eines Zeitabschnitts, der einen Monat nach dem Tag einer solchen Notifikation beginnt und mit dem Inkrafttreten dieser Akte für den erstgenannten Staat endet, wendet dieser das Übereinkommen von 1961 in der durch die Zusatzakte von 1972 geänderten Fassung in seinen Beziehungen zu dem letztgenannten Staat an, während dieser diese Akte in seinen Beziehungen zu dem erstgenannten Staat anwendet.

Artikel 35

Mitteilungen über die schutzfähigen Gattungen und Arten; zu veröffentlichende Informationen

(1) Jeder Staat, der nicht bereits Verbandsstaat ist, notifiziert bei der Hinterlegung seiner Ratifikations-, Annahme-, Genehmigungs- oder Beitrittsurkunde zu dieser Akte dem Generalsekretär eine Liste der Gattungen und Arten, auf die er dieses Übereinkommen anwenden wird, sobald diese Akte für ihn in Kraft tritt.

(2) Der Generalsekretär veröffentlicht auf der Grundlage von Mitteilungen, die er von dem jeweiligen Verbandsstaat erhalten hat, Informationen über

a) die Ausdehnung der Anwendung dieses Übereinkommens auf weitere Gattungen und Arten nach dem Inkrafttreten dieser Akte für diesen Staat,

b) jeden Fall, in dem von der in Artikel 3 Absatz 3 vorgesehenen Möglichkeit Gebrauch gemacht wird,

c) jeden Fall, in dem von Möglichkeiten Gebrauch gemacht wird, die der Rat gemäss Artikel 4 Absatz 4 oder 5 eingeräumt hat,

d) jeden Fall, in dem von der in Artikel 5 Absatz 4 Satz 1 vorgesehenen Möglichkeit Gebrauch gemacht wird, unter Angabe der Art der weitergehenden Rechte und unter Hinweis auf die Gattungen und Arten, auf die sich solche Rechte beziehen,

[Artikel 35, Fortsetzung]

e) jeden Fall, in dem von der in Artikel 5 Absatz 4 Satz 2 vorgesehenen Möglichkeit Gebrauch gemacht wird,

f) die Tatsache, dass das Recht dieses Staates eine nach Artikel 6 Absatz 1 Buchstabe b Ziffer i zulässige Vorschrift enthält, unter Angabe der Länge der eingeräumten Frist,

g) die in Artikel 8 bezeichnete Zeitdauer, wenn sie über fünfzehn beziehungsweise achtzehn Jahre hinausgeht.

Artikel 36

Hoheitsgebiete

(1) Jeder Staat kann in seiner Ratifikations-, Annahme-, Genehmigungs- oder Beitrittsurkunde erklären oder zu jedem späteren Zeitpunkt dem Generalsekretär schriftlich notifizieren, dass diese Akte auf alle oder einzelne in der Erklärung oder Notifikation bezeichneten Hoheitsgebiete anwendbar ist.

(2) Jeder Staat, der eine solche Erklärung abgegeben oder eine solche Notifikation vorgenommen hat, kann dem Generalsekretär jederzeit notifizieren, dass diese Akte auf alle oder einzelne dieser Hoheitsgebiete nicht mehr anwendbar ist.

(3)a) Jede gemäss Absatz 1 abgegebene Erklärung wird gleichzeitig mit der Ratifikation, der Annnahme, der Genehmigung oder dem Beitritt, in deren Urkunde sie enthalten war, und jede Notifikation gemäss jenem Absatz wird drei Monate nach ihrer Notifikation durch den Generalsekretär wirksam.

b) Jede Notifikation gemäss Absatz 2 wird zwölf Monate nach ihrem Eingang beim Generalsekretär wirksam.

Artikel 37

Ausnahmeregelung für den Schutz
unter zwei Schutzrechtsformen

(1) Ungeachtet des Artikels 2 Absatz 1 kann jeder Staat, der vor Ablauf der Frist, während der diese Akte zur Unterzeichnung aufliegt, Schutz unter den in Artikel 2 Absatz 1 bezeichneten unterschiedlichen Formen für dieselbe Gattung oder Art vorsieht, diesen weiterhin vorsehen, wenn er dies dem Generalsekretär zu dem Zeitpunkt notifiziert, zu dem er diese Akte unterzeichnet oder zu dem er seine Ratifikations-, Annahme-, Genehmigungs- oder Beitrittsurkunde zu dieser Akte hinterlegt.

[Artikel 37, Fortsetzung]

(2) Wird in einem Verbandsstaat, auf den Absatz 1 anwendbar ist, um Schutz nach dem Patentgesetz nachgesucht, so kann dieser Staat abweichend von Artikel 6 Absatz 1 Buchstaben a und b und Artikel 8 die Patentierbarkeitskriterien und die Schutzdauer des Patentgesetzes auf die nach diesem Gesetz schutzfähigen Sorten anwenden.

(3) Der betreffende Staat kann jederzeit dem Generalsekretär notifizieren, dass er die nach Absatz 1 vorgenommene Notifikation zurücknimmt. Eine solche Zurücknahme wird zu dem Zeitpunkt wirksam, den der Staat in der Notifikation der Zurücknahme angegeben hat.

Artikel 38

Vorübergehende Einschränkung des Erfordernisses der Neuheit

Ungeachtet des Artikels 6 kann jeder Verbandsstaat, ohne dass daraus den übrigen Verbandsstaaten eine Verpflichtung erwächst, das in jenem Artikel vorgesehene Erfordernis der Neuheit in bezug auf Sorten einschränken, die zu dem Zeitpunkt, zu dem der betreffende Staat dieses Übereinkommen erstmalig auf die Gattung oder Art, welcher die Sorten angehören, anwendet, vorhanden sind, aber erst kurz zuvor gezüchtet wurden.

Artikel 39

Aufrechterhaltung wohlerworbener Rechte

Dieses Übereinkommen lässt Rechte unberührt, die auf Grund des innerstaatlichen Rechtes der Verbandsstaaten oder infolge von Übereinkünften zwischen diesen Staaten erworben worden sind.

Artikel 40

Vorbehalte

Vorbehalte zu diesem Übereinkommen sind nicht zulässig.

Artikel 41

Dauer und Kündigung des Übereinkommens

(1) Dieses Übereinkommen wird auf unbegrenzte Zeit geschlossen.

(2) Jeder Verbandsstaat kann dieses Übereinkommen durch eine an den Generalsekretär gerichtete Notifikation kündigen. Der Generalsekretär notifiziert unverzüglich allen Verbandsstaaten den Eingang dieser Notifikation.

[Artikel 41, Fortsetzung]

(3) Die Kündigung wird zum Ende des Kalenderjahrs wirksam, das auf das Jahr folgt, in dem die Notifikation beim Generalsekretär eingegangen war.

(4) Die Kündigung lässt Rechte unberührt, die auf Grund dieses Übereinkommens an einer Sorte vor dem Tag erworben worden sind, an dem die Kündigung wirksam wird.

Artikel 42

Sprachen; Wahrnehmung der Verwahreraufgaben

(1) Diese Akte wird in einer Urschrift in deutscher, englischer und französischer Sprache unterzeichnet; bei Unstimmigkeiten zwischen den verschiedenen Wortlauten ist der französische Wortlaut massgebend. Die Urschrift wird beim Generalsekretär hinterlegt.

(2) Der Generalsekretär übermittelt den Regierungen aller Staaten, die auf der Diplomatischen Konferenz, die diese Akte angenommen hat, vertreten waren, und der Regierung jedes anderen Staates auf deren Ersuchen zwei beglaubigte Abschriften dieser Akte.

(3) Der Generalsekretär stellt nach Konsultierung der Regierungen der beteiligten Staaten, die auf der genannten Konferenz vertreten waren, amtliche Wortlaute in arabischer, italienischer, japanischer, niederländischer und spanischer Sprache sowie in denjenigen anderen Sprachen her, die der Rat des Verbands gegebenenfalls bezeichnet.

(4) Der Generalsekretär lässt diese Akte beim Sekretariat der Vereinten Nationen registrieren.

(5) Der Generalsekretär notifiziert den Regierungen der Verbandsstaaten und der Staaten, die, ohne Verbandsstaaten zu sein, auf der Diplomatischen Konferenz, die diese Akte angenommen hat, vertreten waren, die Unterzeichnungen dieser Akte, die Hinterlegung von Ratifikations-, Annahme-, Genehmigungs- oder Beitrittsurkunden, jede nach den Artikeln 34 Absatz 2, 36 Absätze 1 und 2, 37 Absätze 1 und 3 oder 41 Absatz 2 eingegangene Notifikation und jede nach Artikel 36 Absatz 1 abgegebene Erklärung.

EN FOI DE QUOI, les soussignés, dûment autorisés à cette fin, ont signé la présente Convention.

FAIT à Genève, le vingt-trois octobre mil neuf cent soixante-dix-huit.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Geneva, this twenty-third day of October, one thousand nine hundred and seventy-eight.

ZU URKUND DESSEN haben die hierzu gehörig befugten Unterzeichneten dieses Übereinkommen unterschrieben.

GESCHEHEN zu Genf am dreiundzwanzigsten Oktober neunzehnhundertachtundsiebzig.

POUR LA REPUBLIQUE FEDERALE D'ALLEMAGNE
FOR THE FEDERAL REPUBLIC OF GERMANY
FÜR DIE BUNDESREPUBLIK DEUTSCHLAND

POUR LA CONFEDERATION SUISSE
FOR THE SWISS CONFEDERATION
FÜR DIE SCHWEIZERISCHE EIDGENOSSENSCHAFT

POUR LA REPUBLIQUE FRANÇAISE
FOR THE FRENCH REPUBLIC
FÜR DIE FRANZÖSISCHE REPUBLIK

POUR LA REPUBLIQUE ITALIENNE
FOR THE ITALIAN REPUBLIC
FÜR DIE ITALIENISCHE REPUBLIK

POUR LA REPUBLIQUE SUD-AFRICAINE
FOR THE REPUBLIC OF SOUTH AFRICA
FÜR DIE REPUBLIK SÜDAFRIKA

POUR LE ROYAUME DE BELGIQUE
FOR THE KINGDOM OF BELGIUM
FÜR DAS KÖNIGREICH BELGIEN

POUR LE ROYAUME DE SUEDE
FOR THE KINGDOM OF SWEDEN
FÜR DAS KÖNIGREICH SCHWEDEN

6.12.1978

POUR LE ROYAUME DES PAYS-BAS
FOR THE KINGDOM OF THE NETHERLANDS
FÜR DAS KÖNIGREICH DER NIEDERLANDE

POUR LE ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
FOR THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
FÜR DAS VEREINIGTE KÖNIGREICH
GROSSBRITANNIEN UND NORDIRLAND

Patrick Murphy

POUR LE ROYAUME DU DANEMARK
FOR THE KINGDOM OF DENMARK
FÜR DAS KÖNIGREICH DÄNEMARK

POUR L'ETAT ESPAGNOL
FOR THE SPANISH STATE
FÜR DEN SPANISCHEN STAAT

POUR LES ETATS-UNIS D'AMERIQUE
FOR THE UNITED STATES OF AMERICA
FÜR DIE VEREINIGTEN STAATEN VON AMERIKA

Stanley J. Marcuss

Je certifie que le texte qui précède est la copie conforme de la Convention internationale pour la protection des obtentions végétales du 2 décembre 1961 revisée à Genève le 10 novembre 1972 et le 23 octobre 1978, adopté à la Conférence diplomatique de revision de la Convention internationale pour la protection des obtentions végétales tenue à Genève du 9 au 23 octobre 1978, et ouvert à la signature à Genève le 23 octobre 1978.

I hereby certify that the foregoing text is a true copy of the International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, and on October 23, 1978, adopted at the Diplomatic Conference on the Revision of the International Convention for the Protection of New Varieties of Plants, held at Geneva from October 9 to 23, 1978, and opened for signature at Geneva on October 23, 1978.

Ich beglaubige hiermit, dass der vorstehende Wortlaut eine wahrheitsgetreue Abschrift des Internationalen Übereinkommens zum Schutz von Pflanzenzüchtungen vom 2. Dezember 1961, revidiert in Genf am 10. November 1972 und am 23. Oktober 1978, ist, das auf der Genfer Diplomatischen Konferenz zur Revision des Internationalen Übereinkommens zum Schutz von Pflanzenzüchtungen vom 9. bis 23. Oktober 1978 angenommen und am 23. Oktober 1978 in Genf zur Unterzeichnung aufgelegt wurde.

Arpad Bogsch

Secrétaire général Union internationale pour la protection des obtentions végétales	Secretary-General International Union for the Protection of New Varieties of Plants	Generalsekretär des Internationalen Verbands zum Schutz von Pflanzenzüchtungen
15 décembre 1978	December 15, 1978	15. Dezember 1978

TURKEY

Criminal Investigations

Agreement extending the agreement of July 8, 1976, as extended.
Effected by exchange of letters
Signed at Washington July 7 and August 24, 1981;
Entered into force August 24, 1981;
Effective July 8, 1981.

The Assistant Attorney General, Criminal Division, to the Turkish Ambassador

TURKISH EMBASSY
WASHINGTON D.C.

July 7, 1981

Dr. D. Lowell Jensen
Assistant Attorney General
Criminal Division
Department of Justice
Room No. 2107
Washington, D.C.

Dear Mr. Jensen,

With reference to my letter of today, I have the honour to request, upon instructions of my Government, the extension of the "Agreement on Procedures for Mutual Assistance in the Administration of Justice in connection with the Lockheed Aircraft Corporation and the McDonnell Douglas Corporation Matters", dated July 8, 1976[1] for another year, starting as of July 8, 1981.

If the above request is acceptable, I have the honour to propose that this letter, together with your acknowledgement shall constitute an agreement to extend the original agreement.

Sincerely yours,

Şükrü Elekdag
Ambassador of the
Turkish Republic

[1] TIAS 8371, 9810; 27 UST 3419; 32 UST 1924.

The Turkish Ambassador to the Assistant Attorney General, Criminal Division

U.S. Department of Justice

Criminal Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

August 24, 1981

His Excellency Sikru Elekdag
Ambassador of the Turkish Republic
Embassy of the Republic of Turkey
Washington, D.C. 20008

Dear Mr. Ambassador:

I have the honor to refer to your letter of July 7, 1981, which states in pertinent part as follows:

> "With reference to my letter of today, I have the honour to request, upon instructions of my Government, the extension of the "Agreement on Procedures for Mutual Assistance in the Administration of Justice in connection with the Lockheed Aircraft Corporation and the McDonnell Douglas Corporation Matters" dated July 8, 1976 for another year, starting as of July 8, 1981.
>
> If the above request is acceptable, I have the honour to propose that this letter, together with your acknowledgement shall constitute an agreement to extend the original agreement."

This letter of reply concerning the proposed extension of the Agreement of July 8, 1976, for an additional year, as requested in your above-mentioned letter of July 7, 1981, constitutes an Agreement between the United States Department of Justice and the Turkish Ministry of Justice effective July 8, 1981.

Please accept the renewed assurances of my consideration.

Sincerely,

D. Lowell Jensen

D. Lowell Jensen
Assistant Attorney General
Criminal Division

MULTILATERAL

Atomic Energy: Application of Safeguards by the IAEA to United States–Turkey Cooperation

Protocol prolonging the agreement of September 30, 1968.
Signed at Vienna June 30, 1981;
Entered into force June 30, 1981.

PROTOCOL PROLONGING THE AGREEMENT BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY, THE GOVERNMENT OF THE REPUBLIC OF TURKEY AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE APPLICATION OF SAFEGUARDS

WHEREAS the Agreement between the International Atomic Energy Agency, the Government of the Republic of Turkey and the Government of the United States of America for the Application of Safeguards, signed on 30 September 1968 [1] (hereinafter referred to as the "Safeguards Transfer Agreement"), provides that it will remain in force during the term of the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Turkey Concerning Civil Uses of Atomic Energy, signed on 10 June 1955, as amended [2] (hereinafter referred to as the "Agreement for Cooperation");

WHEREAS Section 33 of the Safeguards Transfer Agreement provides that it may be prolonged for further periods as agreed by the parties;

WHEREAS the Agreement for Cooperation has expired 9 June 1981;

WHEREAS the Government of the Republic of Turkey has affirmed that it will continue to hold materials, equipment and devices which it or authorized persons under its jurisdiction have received pursuant to the Agreement for Cooperation, and special nuclear material produced by the use of such materials, equipment or devices, subject to the terms and conditions of that Agreement and to the Safeguards Transfer Agreement;

NOW, THEREFORE, the International Atomic Energy Agency (hereinafter referred to as the "Agency"), the Government of the Republic of Turkey and the Government of the United States of America have agreed as follows:

1. The Safeguards Transfer Agreement shall continue in force, unless otherwise agreed by the parties, until the Agency has terminated, in accordance with the terms of that Agreement, the safeguards provided for in that Agreement.

[1] TIAS 6692; 20 UST 780.
[2] TIAS 3320, 4748, 5828, 6040, 7122; 6 UST 2703; 12 UST 519; 16 UST 886; 17 UST 827; 22 UST 673.

2. This Protocol shall enter into force upon signature by or for the Director General of the Agency and by the authorized representatives of the Government of the Republic of Turkey and the Government of the United States of America.

DONE in Vienna on the Thirtieth day of June 1981, in triplicate in the English language.

For the GOVERNMENT OF THE REPUBLIC OF TURKEY: [1]

For the GOVERNMENT OF THE UNITED STATES OF AMERICA:

Roger Kirk [2]

For the INTERNATIONAL ATOMIC ENERGY AGENCY: [3]

[1] Ecmel Barutcu.
[2] Roger Kirk.
[3] Sigvard Eklund.

MULTILATERAL

Atomic Energy: Transfer of Research Reactor and Enriched Uranium to Malaysia

Agreement amending the agreement of September 22, 1980.
Signed at Vienna June 12 and July 22, 1981;
Entered into force July 22, 1981.

INTERNATIONAL ATOMIC ENERGY AGENCY
AGENCE INTERNATIONALE DE L'ENERGIE ATOMIQUE
МЕЖДУНАРОДНОЕ АГЕНТСТВО ПО АТОМНОЙ ЭНЕРГИИ
ORGANISMO INTERNACIONAL DE ENERGIA ATOMICA

WAGRAMERSTRASSE 5, P.O. BOX 100, A-1400 VIENNA, AUSTRIA, TELEX: 1-12645, CABLE: INATOM VIENNA, TELEPHONE: 2360

IN REPLY PLEASE REFER TO:
PRIERE DE RAPPELER LA REFERENCE: 250-C4.11-MAL-1

12 June 1981

Sir,

I have the honour to refer to the Supply and Project Agreement of 22 September 1980 [1] between the International Atomic Energy Agency and the Governments of Malaysia and the United States of America, the text of which is set forth in document INFCIRC/287, and to the approval given by the Board of Governors on 12 June 1981 for the further transfer by the Government of the United States to the Government of Malaysia, through the Agency, of 5 480 grams of uranium with an enrichment of under 20 per cent in the isotope uranium-235 and contained in fuel elements for use in the TRIGA research reactor project covered by the said Agreement.

Pursuant to the authorization given by the Board of Governors, I am pleased to propose that paragraph 1(a) of Article III of the Agreement be amended to read as follows:

"1. The Agency, pursuant to Article IV of the Co-operation Agreement, shall request the United States to permit the transfer and export to Malaysia of the following materials (hereinafter called the "supplied materials") for the supplied reactor:

(a) Approximately 30 240 grams of uranium enriched to approximately 19.90 per cent by weight in the isotope uranium-235, contained in fuel elements; and "
(sub-paragraph (b) remains unchanged).

- The Resident Representative of Malaysia to the IAEA, Vienna

- The Resident Representative of the United States of America to the IAEA, Vienna

[1] TIAS 9863; 32 UST.

If this proposal is agreeable to your Government, I would further propose that all three copies of this letter be countersigned below on behalf of your Government. This letter, as fully signed by all the parties to the Agreement referred to above, will thereupon constitute an amendment to that Agreement.

Accept, Sir, the assurances of my highest consideration.

Carlos Vélez Ocón
Deputy Director General
Department of Technical Assistance
and Publications

for DIRECTOR GENERAL

For the GOVERNMENT OF MALAYSIA:

By: [1]

Date: 12th June 1981

For the GOVERNMENT OF THE UNITED STATES OF AMERICA:

By:
Peter N. Brush
Charge d'Affaires a.i.

Date: July 22, 1981

[1] Syed Abdullah.

SINGAPORE

Aviation: Airworthiness Certifications

Agreement effected by exchange of notes
Signed at Singapore August 21, 1981;
Entered into force August 21, 1981.

The Secretary of State to the Singapore Minister for Trade and Industry

EMBASSY OF THE
UNITED STATES OF AMERICA
Singapore, August 21, 1981

Excellency:

I have the honor to refer to conversations which have recently taken place between representatives of our two Governments relating to the reciprocal acceptance of airworthiness certifications, in the course of which discussions were held regarding appropriate actions necessary to work towards common safety objectives and to establish standards which will be as similar as practicable. It is my understanding that the two Governments have reached an agreement as set out below. It is also my understanding that this agreement does not relate to noise abatement or anti-pollution requirements.

1. This Agreement applies to civil aeronautical products (hereinafter referred to as "products") when such products are produced in one contracting State (also referred to as the "exporting State") and exported to the other contracting State (also referred to as the "importing State"), and to products produced in another State with which both contracting States have agreements similar in scope for reciprocal acceptance of airworthiness certifications.

2.A. If the competent aeronautical authorities of the exporting State certify that a product produced in that State complies either with its applicable laws, regulations, and requirements as well as any additional requirements which

His Excellency

Tony Tan Keng Yam

Minister for Trade and Industry

Republic of Singapore

may have been prescribed by the importing State under paragraph 4 of this Agreement, or with the applicable laws, regulations, and requirements of the importing State, as notified by the importing State as being applicable in the particular case, the importing State shall give the same validity to the certification as if the certification had been made by its own competent aeronautical authorities in accordance with its own applicable laws, regulations, and requirements.

B. In the case of a product produced in another State with which both contracting States have agreements similar in scope for reciprocal acceptance of airworthiness certification, if the competent aeronautical authorities of the State exporting the product provide a certification that the product conforms to the design covered by the certificate of approval issued by the importing State and certify that the product is in a proper state of airworthiness, the importing State shall give the same validity to such certification as if the certification had been made by its own competent aeronautical authorities in accordance with its applicable laws, regulations, and requirements.

3. In the case of a component which is produced in the exporting State for export and use on a product which is or may be certificated or approved in the importing State, if the competent aeronautical authorities of the exporting State certify that the component conforms to the applicable design data, meets the applicable test requirements, and has been produced in accordance with the applicable quality control requirements, which have been notified by the importing State to the exporting State, the importing State shall give the

same validity to the certification as if the certification had been made by its own competent aeronautical authorities. This provision shall only apply to those components which are produced by a manufacturer in the exporting State pursuant to an agreement between the manufacturer and the product manufacturer in the importing State. Furthermore, it shall only apply in those instances where, in the judgment of the importing State, the component is of such complexity that determination of conformity and quality control cannot readily be made at the time the component is assembled with the product.

4. The competent aeronautical authorities of the importing State shall have the right to make acceptance of any certification by the competent aeronautical authorities of the exporting State dependent upon the product meeting any additional requirements which the importing State finds necessary to ensure that the product meets a level of safety equivalent to that provided by its applicable laws, regulations, and requirements, which would be effective for a similar product produced in the importing State. The competent aeronautical authorities of the importing State shall promptly advise the competent aeronautical authorities of the exporting State of any such additional requirements.

5. The competent aeronautical authorities of each contracting State shall keep the competent aeronautical authorities of the other contracting State fully informed of all mandatory airworthiness modifications and special inspections which they determine are necessary in respect of imported or exported products to which this Agreement applies.

6. The competent aeronautical authorities of the exporting State shall, in respect of products produced in that State, assist the competent aeronautical authorities of the importing State in determining whether major design changes and major repairs made under the control of the competent aeronautical authorities of the importing State comply with the laws, regulations, and requirements under which the product was originally certificated or approved. They shall also assist in analyzing those major incidents occurring on products to which this Agreement applies and which are such as would raise technical questions regarding the airworthiness of such products.

7. The competent aeronautical authorities of each contracting State shall keep the competent aeronautical authorities of the other contracting State currently informed of all relevant laws, regulations, and requirements of their State.

8. In the case of conflicting interpretations of the laws, regulations or requirements pertaining to certifications or approvals under this Agreement, the interpretation of the competent aeronautical authorities of the contracting State whose law, regulation or requirement is being interpreted shall prevail.

9. For the purpose of this Agreement:

(A) "Products" means aircraft, engines, propellers, components, and appliances.

(B) "Aircraft" means civil aircraft of all categories, whether used in public transportation or for other purposes, and replacement and modification parts therefor, when such aircraft and replacement and modification

parts are exported from the United States to Singapore, or when such replacement and modification parts are exported from Singapore to the importing State or another State as provided for in subparagraph (E).

(C) "Engines" means engines and replacement and modification parts therefor, when such engines and replacement and modification parts are exported from the United States to Singapore, or when such replacement and modification parts are exported from Singapore to the importing State or another State as provided for in subparagraph (E).

(D) "Propellers" means propellers and replacement and modification parts therefor, when such propellers and replacement and modification parts are exported from the United States to Singapore, or when such replacement and modification parts are exported from Singapore to the importing State or another State as provided for in subparagraph (E).

(E) "Component" means a U.S.-designed material, part, or sub-assembly produced in the exporting State for use in the manufacture of a product which is or may be certificated or approved in the importing State, and such components shipped directly from the exporting State for use as replacement and modification parts on U.S.-manufactured aircraft located in the importing State or another State when authorized by the competent aeronautical authorities of the importing State.

(F) "Appliance" means any instrument, equipment, mechanism, apparatus, or accessory used in or intended to be used in operating an aircraft, which is installed in, intended to be installed in, or attached to the aircraft,

but is not part of an airframe, engine, or propeller, and includes replacement and modification parts therefor, provided that in the case of those appliances exported from Singapore to the United States, each such appliance is approved by the Federal Aviation Administration under provisions set forth in Title 14, United States Code of Federal Regulations, Section 21.617 (Technical Standard Order design approvals).

(G) "Produced in one contracting State" means that the product as a whole is fabricated in the exporting State, even though portions thereof may have been fabricated in another State.

(H) "Applicable laws, regulations, and requirements" means:

(i) those airworthiness laws, regulations, and requirements which are effective on the date the manufacturer applies for certification of the product in the importing State; or

(ii) for products currently in production, those airworthiness requirements effective on the date of the latest amendment of the airworthiness requirements which were required to be used for the certification of the product in the exporting State or those airworthiness requirements of the importing State applicable to a similar product certificated to airworthiness requirements of the same date; or

(iii) for products no longer in production, such airworthiness requirements as the competent aeronautical authorities of the importing State find acceptable in the particular case.

10. The competent aeronautical authorities of each contracting State shall make such mutual arrangements in respect of procedures as they deem necessary to implement this Agreement, and to ensure that redundant certification, testing, and analysis are avoided.

11. Each contracting State shall keep the other contracting State advised as to the identity of its competent aeronautical authorities.

12. Either contracting State may request amendment of this Agreement at any time.

13. Either contracting State may terminate this Agreement at the expiration of not less than sixty days after giving written notice of that intention to the other State.

Upon receipt of a note from your Excellency indicating that the foregoing provisions are acceptable to the Government of the Republic of Singapore, the Government of the United States of America will consider that the present note and your reply thereto constitute an Agreement between our two Governments on this subject which shall enter into force on the date of your reply.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

Harry E. T. Thayer

Harry E. T. Thayer
Ambassador

The Singapore Minister for Trade and Industry to the American Ambassador

MINISTER FOR TRADE AND INDUSTRY
SINGAPORE

Excellency

I have the honour to acknowledge the receipt of your Excellency's note of 21 August 1981 proposing an Agreement relating to the reciprocal acceptance of airworthiness certifications between the Republic of Singapore and the United States of America.

I have further the honour to confirm that Your Excellency's proposal is acceptable to my Government and that Your Excellency's note and this note in reply thereto shall constitute an Agreement between our two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

Tony Tan Keng Yam
Minister for Trade & Industry
Republic of Singapore

21 August 1981

His Excellency
Harry E T Thayer
Ambassador of the United States
of America to the Republic
of Singapore

TIAS 10203

CANADA

Maritime Boundary: Dispute Settlement

Treaty, with agreements, signed at Washington March 29, 1979;
Transmitted by the President of the United States of America to the Senate May 3, 1979 (S. Ex. U, 96th Cong., 1st Sess.);
Reported favorably by the Senate Committee on Foreign Relations April 1, 1981 (S. Ex. Rept. No. 97–5, 97th Cong., 1st Sess.);
Advice and consent to ratification by the Senate, with amendments, April 29, 1981;
Ratified by the President, subject to said amendments, June 3, 1981;
Ratified by Canada November 17, 1981;
Ratifications exchanged at Ottawa November 20, 1981;
Proclaimed by the President February 5, 1982;
Entered into force November 20, 1981.

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Treaty between the Government of the United States of America and the Government of Canada to Submit to Binding Dispute Settlement the Delimitation of the Maritime Boundary in the Gulf of Maine Area, together with the Special Agreement to Submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine Area and the Agreement to Submit to a Court of Arbitration the Delimitation of the Maritime Boundary in the Gulf of Maine Area, was signed at Washington on March 29, 1979;

The Senate of the United States of America by its resolution of April 29, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Treaty, subject to the following amendments:

"1. that the second sentence of Article I of this treaty shall be amended as follows:

'The Chamber of the International Court of Justice shall be deemed to have been constituted when the Registrar of the Court has been notified of the name or names of the judge or judges ad hoc.'

2. that Article IV of this treaty shall be amended as follows:

'This Treaty shall be ratified in accordance with the domestic requirements of the Parties and shall enter into force on the date instruments of ratification are exchanged and shall remain in force until terminated by agreement of the Parties.'

3. that Article I of the Special Agreement Between the Government of the United States of America and the Government of Canada to Submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine Area, signed at Washington, March 29, 1979, shall be amended as follows:

'The Parties shall submit the question posed in Article II to a Chamber of the International Court of Justice, composed of five persons, to be constituted after consultation with the Parties, pursuant to Article 26(2) and Article 31 of the Statute of the Court and in accordance with this Special Agreement.'

4. that Article VI, paragraph 1.(a) of the Special Agreement Between the Government of the United States of America and the

Government of Canada to Submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine Area, signed at Washington, March 29, 1979, shall be amended as follows:

'(a) a Memorial to be submitted by each Party not later than seven months after the Registrar shall have received the notification of the name or names of the judge or judges ad hoc;'

5. that paragraph 1 of Article XIII of the Agreement Between the Government of the United States of America and the Government of Canada to Submit to a Court of Arbitration the Delimitation of the Maritime Boundary in the Gulf of Maine Area, signed at Washington, March 29, 1979, shall be amended as follows:

'1. Following the rendering of the decision of the Court or of the Chamber of the International Court of Justice constituted pursuant to the Special Agreement Between the Government of the United States of America and the Government of Canada to Submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine Area, either party may request negotiations directed toward reaching agreement on extension of the maritime boundary as far seaward as the Parties may consider desirable.'

6. that paragraph 4 of Article XIII of the Agreement Between the Government of the United States of America and the Government of Canada to Submit to a Court of Arbitration the Delimitation of the Maritime Boundary in the Gulf of Maine Area, signed at Washington, March 29, 1979, shall be amended as follows:

'4. If Agreement pursuant to paragraph 1 or paragraph 2 is not reached, and the matter cannot be submitted to the Court in accordance with paragraph 3, either Party may call upon the President of the International Court of Justice to select, after consultation with the Parties, five persons to constitute a Court of Arbitration.'

7. that paragraph 5 of Article XIII of the Agreement Between the Government of the United States of America and the Government of Canada to Submit to a Court of Arbitration the Delimitation of the Maritime Boundary in the Gulf of Maine Area, signed at Washington, March 29, 1979, be renumbered paragraph 6.

8. that a new paragraph 5 be added to Article XIII of the Agreement Between the Government of the United States of America and the Government of Canada to Submit to a Court of Arbitration the Delimitation of the Maritime Boundary in the Gulf of Maine Area, signed at Washington, March 29, 1979, as follows:

'5. If the decision referred to in paragraph 1 was rendered by a Chamber of the International Court of Justice, and this Agree-

ment subsequently enters into force, a Court of Arbitration shall be established, in accordance with Article I of this Agreement, for the purposes of deciding the question referred to in paragraph 2 of this Article.' "

The Treaty was ratified, subject to the aforesaid amendments, by the President of the United States of America on June 3, 1981, in pursuance of the advice and consent of the Senate, it was duly ratified as amended on the part of Canada;

The texts of the Treaty and the Agreements, incorporating the amendments, are hereto annexed;[1]

It is provided in Article IV of the Treaty that the Treaty shall enter into force on the date the instruments of ratification are exchanged;

The instruments of ratification of the Treaty were exchanged at Ottawa on November 20, 1981, and accordingly the Treaty entered into force on November 20, 1981;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim and make public the Treaty, to the end that it be observed and fulfilled with good faith on and after November 20, 1981, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this fifth day of February in the year of our Lord one thousand nine hundred eighty-two and of the Independence of the United States of America the two hundred sixth.

[SEAL]

RONALD REAGAN

By the President:
ALEXANDER M. HAIG JR
Secretary of State

[1] The amended provisions of the treaty and the agreements as ratified are hereinafter printed in italics. The texts of those provisions as signed are printed in appropriate footnotes.

76-318 O - 88 - 15 VOL. 33 (Pt. 3)

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA TO SUBMIT TO BINDING DISPUTE SETTLEMENT THE DELIMITATION OF THE MARITIME BOUNDARY IN THE GULF OF MAINE AREA

The Government of the United States of America and the Government of Canada,

Recognizing that they have been unable to resolve by negotiation the differences between them concerning the delimitation of the continental shelf and the fisheries zones of the United States of America and Canada in the Gulf of Maine area,

Desiring to reach an early and amicable settlement of these differences,

Have agreed as follows:

ARTICLE I

The Parties shall, pursuant to Article 40 of the Statute of the International Court of Justice,[1] *notify the Court of the Special Agreement between the Government of Canada and the Government of the United States of America to Submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine Area annexed hereto. The Chamber of the International Court of Justice shall be deemed to have been constituted when the Registrar of the Court has been notified of the name or names of the judge or judges ad hoc.*[2]

ARTICLE II

If, for any reason, the Chamber referred to in Article I has not been constituted in accordance with the provisions of this Treaty and the Special Agreement by the end of the sixth full calendar month after the date of entry into force of this Treaty, either Party may at any time prior to the constitution of the Chamber, terminate the Special

[1] TS 993; 59 Stat. 1061.

[2] As amended.

The text of the article as signed read as follows:

"The Parties shall, pursuant to Article 40 of the Statute of the International Court of Justice, notify the Court of the Special Agreement between the Government of the United States of America and the Government of Canada to Submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine Area annexed hereto. The Chamber of the International Court of Justice shall be deemed to have been constituted when the Parties notify the Registrar of the Court of the names of the judges *ad hoc* which they have chosen."

Agreement, whereupon the Agreement between the Government of the United States of America and the Government of Canada to Submit to a Court of Arbitration the Delimitation of the Maritime Boundary in the Gulf of Maine Area annexed hereto shall enter into force. In the event the Special Agreement is terminated the Parties shall jointly notify the International Court of Justice that the proceedings under the Special Agreement are discontinued.

ARTICLE III

If, at any time following the constitution of the Chamber, in accordance with the provisions of this Treaty and the Special Agreement, a vacancy on the Chamber is not filled in a manner acceptable to the Parties within four months of the date on which the vacancy occurred, either Party may within a further two months terminate the Special Agreement, whereupon the Agreement between the Government of the United States of America and the Government of Canada to Submit to a Court of Arbitration the Delimitation of the Maritime Boundary in the Gulf of Maine Area annexed hereto shall enter into force. In the event the Special Agreement is terminated, the Parties shall jointly notify the International Court of Justice that the proceedings under the Special Agreement are discontinued.

ARTICLE IV

This Treaty shall be ratified in accordance with the domestic requirements of the Parties and shall enter into force on the date instruments of ratification are exchanged and shall remain in force until terminated by agreement of the Parties.[1]

[1] As amended.

The text of the article as signed read as follows:

"This Treaty shall be ratified in accordance with the domestic requirements of the Parties and shall enter into force on the date instruments of ratification of this Treaty and of the Agreement between the Government of the United States of America and the Government of Canada on East Coast Fishery Resources are exchanged and shall remain in force until terminated by agreement of the Parties."

TRAITÉ ENTRE LE GOUVERNEMENT DES ÉTATS-UNIS D'AMÉRIQUE ET LE GOUVERNEMENT DU CANADA VISANT À SOUMETTRE AU RÈGLEMENT OBLIGATOIRE LE DIFFÉREND RELATIF À LA DÉLIMITATION DE LA FRONTIÈRE MARITIME DANS LA RÉGION DU GOLFE DU MAINE

Le Gouvernement des États-Unis d'Amérique et le Gouvernement du Canada,

Reconnaissant qu'ils n'ont pu résoudre par voie de négociation leurs différends en matière de délimitation du plateau continental et des zones de pêche des États-Unis d'Amérique et du Canada dans la région du golfe du Maine,

Désirant parvenir à un règlement amical de ces différends dans les meilleurs délais,

Sont convenus de ce qui suit:

ARTICLE 1

En application de l'Article 40 du Statut de la Cour internationale de Justice, les Parties notifient la Cour du Compromis annexé aux présentes entre le Gouvernement du Canada et le Gouvernement des États-Unis d'Amérique visant à soumettre à une Chambre de la Cour internationale de Justice la question de la délimitation de la frontière maritime dans la région du golfe du Maine. La Chambre de la Cour internationale de Justice est réputée avoir été constituée lorsque le Greffier de la Cour a été notifié du nom du juge ad hoc ou des noms des juges ad hoc.[1]

ARTICLE II

Si, pour une raison quelconque, la Chambre visée à l'Article I n'a pas été constituée conformément aux dispositions du présent Traité et du Compromis à la fin du sixième mois civil révolu suivant la date

[1] Tel qu'amendé.

Le texte de l'article, tel que signé, avait la teneur suivante:

"En application de l'Article 40 du Statut de la Cour internationale de Justice, les Parties notifient la Cour du Compromis annexé aux présentes entre le Gouvernement des États-Unis d'Amérique et le Gouvernement du Canada visant à soumettre à une Chambre de la Cour internationale de Justice la question de la délimitation de la frontière maritime dans la région du golfe du Maine. La Chambre de la Cour internationale de Justice est réputée avoir été constituée lorsque les Parties communiquent au Greffier de la Cour les noms des juges *ad hoc* qu'elles ont choisis."

d'entrée en vigueur du présent Traité, l'une ou l'autre Partie peut dénoncer le Compromis à tout moment avant la constitution de la Chambre, auquel cas le Compromis entre le Gouvernement des États-Unis d'Amérique et le Gouvernement du Canada visant à soumettre à une Cour d'arbitrage la question de la délimitation de la frontière maritime dans la région du golfe du Maine entre en vigueur. En cas de dénonciation du Compromis, les Parties notifient conjointement la Cour internationale de Justice de la discontinuation de la procédure aux termes du Compromis.

ARTICLE III

Si, à quelque moment que ce soit après la constitution de la Chambre conformément aux dispositions du présent Traité et du Compromis, il n'est pas pourvu à une vacance à la Chambre d'une manière que les Parties jugent acceptable dans les quatre mois suivant la date à laquelle s'est produite la vacance, l'une ou l'autre Partie peut dénoncer le Compromis dans les deux mois qui suivent le délai de quatre mois, auquel cas le Compromis d'arbitrage annexé aux présentes entre le Gouvernement des États-Unis d'Amérique et le Gouvernement du Canada visant à soumettre à une cour d'arbitrage la question de la délimitation de la frontière maritime dans la région du golfe du Maine entre en vigueur. En cas de dénonciation du Compromis, les Parties notifient conjointement la Cour internationale de Justice de la discontinuation de la procédure aux termes du Compromis.

ARTICLE IV

Le prèsent Traité sera ratifié en conformité avec les exigences nationales des Parties et entrera en vigueur à la date de l'échange des instruments de ratification. Il demeurera en vigueur jusqu'à son abrogation par voie d'accord entre les Parties.[1]

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

DONE in duplicate at Washington this twenty-ninth day of March 1979, in the English and French languages, each text being equally authentic.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé le présent Traité.

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[1] Tel qu'amendé.

Le texte de'article, tel que signé, avait la teneur suivante:

"Le présent Traité sera ratifié en conformité avec les exigences nationales des Parties et entrera en vigueur à la date de l'échange des instruments de ratification du présent Traité et de l'Accord entre le Gouvernement des Ètats-Unis d'Amérique et le Gouvernement du Canada sur les ressources halieutiques de la côte est, et demeurera en vigueur jusqu'à son abrogation par entente mutuelle des Parties."

FAIT en double exemplaire à Washington ce vingt-neuvieme jour de mars 1979, en anglais et en français, chaque texte faisant également foi.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

POUR LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE:

CYRUS R. VANCE

LLOYD N CUTLER

FOR THE GOVERNMENT OF CANADA:

POUR LE GOUVERNEMENT DU CANADA:

P M TOWE

M CADIEUX

SPECIAL AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA TO SUBMIT TO A CHAMBER OF THE INTERNATIONAL COURT OF JUSTICE THE DELIMITATION OF THE MARITIME BOUNDARY IN THE GULF OF MAINE AREA

The Government of the United States of America and the Government of Canada,

Recognizing that they have been unable to resolve by negotiation the differences between them concerning the delimitation of the continental shelf and the fisheries zones of the United States of America and Canada in the Gulf of Maine area,

Desiring to reach an early and amicable settlement of these differences,

Have agreed as follows:

ARTICLE I

The Parties shall submit the question posed in Article II to a Chamber of the International Court of Justice, composed of five persons, to be constituted after consultation with the Parties, pursuant to Article 26(2) and Article 31 of the Statute of the Court and in accordance with this Special Agreement.[1]

ARTICLE II

1. The Chamber is requested to decide, in accordance with the principles and rules of international law applicable in the matter as between the Parties, the following question:

> What is the course of the single maritime boundary that divides the continental shelf and fisheries zones of the United States of America and Canada from a point in latitude 44°11′12″ N, longitude 67°16′46″ W to a point to be determined by the Chamber within an area bounded by straight lines connecting the following sets of geographic coordinates: latitude 40° N, longitude 67° W; latitude 40° N, longitude 65° W; latitude 42° N, longitude 65° W?

[1] As amended.

The text of the article as signed read as follows:

"1. The Parties shall submit the question posed in Article II to a Chamber of the International Court of Justice constituted pursuant to Article 26(2) and Article 31 of the Statute of the Court and in accordance with this Special Agreement.

2. The Chamber shall be composed of five persons, three of whom shall be elected by and from the Members of the Court, after consultation with the Parties, and two of whom shall be judges *ad hoc*, who shall not be nationals of either Party, chosen by the Parties."

2. The Chamber is requested to describe the course of the maritime boundary in terms of geodetic lines connecting geographic coordinates of points. The Chamber is also requested, for illustrative purposes only, to depict the course of the boundary on Canadian Hydrographic Service Chart No. 4003 and United States National Ocean Survey Chart No. 13006, in accordance with Article IV.

3. The Parties shall request the Chamber to appoint a technical expert nominated jointly by the Parties to assist it in respect of technical matters and, in particular, in preparing the description of the maritime boundary and the charts referred to in paragraph 2. The Registrar is requested to provide the expert with copies of each Party's pleadings when such pleadings are communicated to the other Party. The expert shall be present at the oral proceedings and shall be available for such consultations with the Chamber as it may deem necessary for the purposes of this Article.

4. The Parties shall accept as final and binding upon them the decision of the Chamber rendered pursuant to this Article.

ARTICLE III

1. South and west of the maritime boundary to be determined by the Chamber in accordance with this Special Agreement Canada shall not, and north and east of said maritime boundary the United States of America shall not, claim or exercise sovereign rights or jurisdiction for any purpose over the waters or seabed and subsoil.

2. Nothing in this Special Agreement shall affect the position of either Party with respect to the legal nature and seaward extent of the continental shelf, of fisheries jurisdiction, or of sovereign rights or jurisdiction for any other purpose under international law.

ARTICLE IV

The Chamber and any technical expert or experts are requested to utilize, and the Parties in their presentations to the Chamber shall utilize, the following technical provisions:

(a) All geographic coordinates of points referred to shall be rendered on the 1927 North American Datum.

(b) All straight lines shall be geodetic lines. Curved lines, including parallels of latitude, if necessary for the judgment, shall be computed on the 1927 North American Datum.

(c) Notwithstanding the fact that the Parties utilize different vertical datums in the Gulf of Maine area, the two datums shall be deemed to be common.

(d) Should reference to the low water baseline of either Party be required, the most recent largest scale charts published by the Party concerned shall be utilized.

(e) If a point or points on a particular chart are not on the 1927 North American Datum, the Chamber shall request the Agent

of the appropriate Party to furnish the Chamber with the corrected datum points.

(f) In recognition of the fact that the Parties do not utilize the same standard set of symbols on nautical charts, the Chamber, or any technical expert or experts shall, if necessary, confer with the Agents and their advisers to insure proper interpretation of the symbol or feature.

(g) The Chamber, or any technical expert or experts, is requested to consult with the Parties as may be necessary concerning any common computer programs of the Parties for technical calculations, and to utilize such programs as appropriate.

ARTICLE V

1. Neither Party shall introduce into evidence or argument, or publicly disclose in any manner, the nature or content of proposals directed to a maritime boundaries settlement, or responses thereto, in the course of negotiations or discussions between the Parties undertaken since 1969.

2. Each of the Parties shall notify and consult the other prior to introducing into evidence or argument diplomatic or other confidential correspondence between the United States of America and Canada related to the issue of maritime boundaries delimitation.

ARTICLE VI

1. Without prejudice to any question as to burden of proof, the Parties shall request the Chamber to authorize the following procedure with regard to the written pleadings:

(a) *A Memorial to be submitted by each Party not later than seven months after the Registrar shall have received the notification of the name or names of the judge or judges ad hoc;* [1]

(b) a Counter-Memorial to be submitted by each Party not later than six months after the exchange of Memorials; and

(c) any further pleadings found by the Chamber to be necessary.

2. The Chamber may extend these time limits at the request of either Party.

3. The written pleadings submitted to the Registrar shall not be communicated to the other Party until the corresponding pleading of that Party has been received by the Registrar.

ARTICLE VII

1. Following the decision of the Chamber, either Party may request negotiations directed toward reaching agreement on extension of the

[1] As amended.

The text of the paragraph as signed read as follows:

"(a) a Memorial to be submitted by each Party not later than seven months after the Registrar shall have received from both Parties the notification of the names of the two judges *ad hoc;*"

maritime boundary as far seaward as the Parties may consider desirable.

2. If the Parties have not reached agreement on the extension of the maritime boundary within one year of the date of such a request, either Party may notify the other of its intention to submit the question of the seaward extension of the maritime boundary for decision by a binding third party settlement procedure.

3. If the Parties are unable to agree on the terms of such a submission within three months of such a notification, either Party may submit the question of the seaward extension of the maritime boundary to the Chamber of five judges constituted in accordance with this Special Agreement.

4. The provisions of this Special Agreement shall be applied, *mutatis mutandis*, to the proceedings under this Article, and the decision of the Chamber shall be final and binding upon the Parties.

ARTICLE VIII

This Special Agreement shall enter into force on the date of the entry into force of the Treaty between the Government of the United States of America and the Government of Canada to Submit to Binding Dispute Settlement the Delimitation of the Maritime Boundary in the Gulf of Maine Area signed this day. It shall remain in force unless and until it is terminated in accordance with the provisions of the said Treaty or until the said Treaty is terminated.

COMPROMIS ENTRE LE GOUVERNEMENT DES ÉTATS-UNIS D'AMÉRIQUE ET LE GOUVERNEMENT DU CANADA VISANT À SOUMETTRE À UNE CHAMBRE DE LA COUR INTERNATIONALE DE JUSTICE LA QUESTION DE LA DÉLIMITATION DE LA FRONTIÈRE MARITIME DANS LA RÉGION DU GOLFE DU MAINE

Le Gouvernement des États-Unis d'Amérique et le Gouvernement du Canada,

Reconnaissant qu'ils n'ont pu résoudre par voie de négociation leurs différends en matière de délimitation du plateau continental et des zones de pêche de l'un et l'autre pays dans la région du golfe du Maine,

Désirant parvenir à un règlement amical de ces différends dans les meilleurs délais,

Sont convenus de ce qui suit:

ARTICLE I

Les parties soumettent la question posée à l'Article II à une Chambre de la Cour internationale de Justice, composée de cinq personnes et constituée après consultation avec les Parties, en application du paragraphe 2 de l'Article 26 et de l'Article 31 du Statut de la Cour et conformément aux dispositions du présent Compromis.[1]

ARTICLE II

1. La Chambre est priée de statuer, conformément aux régles et principes du droit international applicables en la matière entre les Parties, sur la question suivante:

Quel est le tracé de la frontière maritime unique divisant le plateau continental et les zones de pêche des États-Unis d'Amérique et le Canada à partir d'un point situé par 44°11′12″ de latitude nord et 67°16′46″ de longitude ouest jusqu' à un point devant être fixé par la Chambre à l'intérieur d'une zone delimitée par des lignes droites

[1] Tel qu'amendé.

Le texte de l'article, tel que signé, avait la teneur suivante:

"1. Les Parties soumettent la question posée à l'Article II à une Chambre de la Cour internationale de Justice constituée en application du paragraphe 2 de l'Article 26 et de l'Article 31 du Statut de la Cour et conformément aux dispositions du présent Compromis.

2. La Chambre est composée de cinq personnes, dont trois sont élues par les membres de la Cour et choisies parmi eux après consultation avec les Parties; les deux autres membres sont des judges *ad hoc*, qui ne sont ressortissants ni de l'autre Partie et sont choisis par les Parties."

reliant les coordonnées géographiques suivantes: 40° de latitude nord et 67° de longitude ouest; 40° de latitude nord et 65° de longitude ouest; 42° de latitude nord et 65° de longitude ouest?

2. La Chambre est priée de décrire le tracé de la frontière maritime en termes de lignes géodésiques reliant les coordonnées géographiques des points. La Chambre est également priée, à seules fins d'illustration, d'indiquer le tracé de la frontière sur la carte n° 4 003 du Service hydrographique du Canada et sur la carte n° 13 006 de la *United States National Ocean Survey*, conformément aux dispositions de l'Article IV.

3. Les Parties prient la Chambre de nommer un expert technique, désigné conjointement par les Parties, pour l'aider dans la considération des questions techniques et notamment dans la préparation de la description de la frontière maritime et des cartes mentionnées au paragraphe 2. Le Greffier est prié de fournir à l'expert technique des exemplaires des pièces de procédure de chaque Partie lorsque lesdites pièces seront communiquées à l'autre Partie. L'expert assiste à la procédure orale et se tient à la disposition de la Chambre pour toute consultation que cette dernière estime nécessaire aux fins du présent article.

4. Les Parties acceptent comme définitive et obligatoire pour elles-mêmes la décision de la Chambre rendue en application du présent article.

ARTICLE III

1. Au sud et à l'ouest de la frontière maritime devant être délimitée par la Chambre en application du présent Compromis le Canada ne peut, et au nord et à l'est de ladite frontière maritime les États-Unis d'Amérique ne peuvent, à quelque fin que ce soit, revendiquer ou exercer de jurisdiction ou de droits souverains sur les eaux ou sur le fond marin et le sous-sol de la mer.

2. Aucune disposition du présent Compromis ne modifie la position de l'une ou l'autre Partie à l'égard de la nature juridique ou de l'étendue vers le large du plateau continental, de la jurdiction en matière de pêches, ou de la juridiction ou des droits souverains à toute autre fin en vertu du droit international.

ARTICLE IV

La Chambre et l'expert ou les experts techniques sont priés, et les Parties dans leurs présentations à la Chambre sont tenues, de se conformer aux dispositions techniques suivantes:

a) Toutes les coordonnées géographiques des points mentionnés sont établies en fonction de la station origine de la triangulation nord-américaine de 1927.
b) Toutes les lignes droites sont des lignes géodésiques. Si elles sont nécessaires aux fins de l'arrêt, les courbes, y compris les parallèles de latitude, sont calculées en fonction de la station origine de la triangulation nord-américaine de 1927.

c) Bien que les Parties utilisent des niveaux de référence différents dans la région du golfe du Maine, les deux sont considérés comme étant communs.

d) S'il est nécessaire de se référer à la laisse de basse mer de l'une ou l'autre Partie, les cartes les plus récentes et à plus grande échelle possible publiées par la Partie en cause sont utilisées.

e) Si un ou plusieurs points sur une carte donnée ne sont pas établis en fonction de la station origine de la triangulation nord-américaine de 1927, la Chambre demande à l'agent de la Partie en cause de lui fournir les points origine corrigés.

f) Comme les Parties n'utilisent pas les mêmes symboles normalisés sur leurs cartes marines, la Chambre, l'expert ou les experts techniques consultent au besoin les agents et leurs conseillers pour assurer l'interprétation correcte du symbole ou du signe en question.

g) La Chambre, l'expert ou les experts techniques sont priés de consulter au besoin les Parties au sujet de tout programme informatique mis au point conjointement par les Parties aux fins de calculs techniques, et d'utiliser de tels programmes au besoin.

ARTICLE V

1. Ni l'une ni l'autre Partie ne communique à titre de preuve ou d'argument ni ne divulgue publiquement de quelque manière que ce soit la nature ou le contenu des propositions en vue d'un règlement du différend relatif à la délimitation des frontières maritimes, ou des réponses à ces propositions, faites au cours des négociations ou discussions entreprises depuis 1969.

2. Chaque Partie notifie et consulte l'autre Partie avant de communiquer à titre de preuve ou d'argument la correspondance diplomatique ou toute autre correspondance confidentielle entre les États-Unis d'Amérique et le Canada portant sur la question de la délimitation des frontières maritimes.

ARTICLE VI

1. Sans préjuger aucune question relative à la charge de la preuve, les Parties prient la Chambre d'autoriser la procédure suivante au regard des pièces de procédure écrites:

a) *un mémoire soumis par chacune des Parties au plus tard sept mois après que le Greffier a reçu notification du nom du juge ad hoc ou des noms des juges ad hoc;* [1]

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[1] Tel qu'amendé.

Le texte de l'article, tel que signé, avait la teneur suivante:

"a) un mémoire soumis par chacune des Parties au plus tard sept mois après que le Greffier a reçu des deux Parties notification des noms des deux juges *ad hoc;*"

b) un contre-mémoire soumis par chacue des Parties au plus tard six mois après l'échange des mémoires;
c) toute autre pièce de procédure jugée nécessaire par la Chambre.

2. La Chambre peut prolonger ces délais à la demande de l'une ou l'autre Partie.

3. Les pièces de procédure écrites présentées au Greffier ne sont pas communiquées à l'autre Partie tant que le Greffier n'a pas reçu la piéce de procédure correspondante de l'autre Partie.

ARTICLE VII

1. Á la suite de la décision de la Chambre, l'une ou l'autre Partie peut demander la tenue de négociations en vue d'une entente sur l'extension de la frontière maritime vers le large sur une aussi grande distance que les Parties le jugent souhaitable.

2. Si les Parties ne parviennent pas à s'entendre sur l'extension de la frontière maritime dans l'année qui suit la date d'une telle demande, chaque Partie peut notifier l'autre Partie de son intention de soumettre la question de l'extension de la frontière maritime vers le large à la procédure de règlement obligatoire par tierce partie.

3. Si les Parties ne parviennent pas à s'entendre sur les conditions d'une telle soumission dans les trois mois qui suivent cette notification, l'une ou l'autre Partie peut soumettre la question de l'extension de la frontière maritime vers le large à la Chambre de cinq juges constituée en conformité avec le présent Compromis.

4. Les dispositions du présent Compromis s'appliquent, *mutatis mutandis*, à la procédure établie dans le présent article et la décision de la Chambre est définitive et obligatoire pour les Parties.

ARTICLE VIII

Le présent Compromis entre en vigueur à la date de l'entrée en vigueur du Traité entre le Gouvernement des États-Unis d'Amérique et le Gouvernement du Canada visant à soumettre au règlement obligatoire le différend relatif à la délimitation de la frontière maritime dans la région du golfe du Maine, signé en ce jour. Il demeure en vigueur jusqu'à ce qu'il soit abrogé conformément aux dispositions dudit Traité ou jusqu'à l'abrogation dudit Traité.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Special Agreement.

DONE in duplicate at Washington this twenty-ninth day of March 1979, in the English and French languages, each text being equally authentic.

EN FOI DE QUOI, les soussigné, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé le présent compromis.

FAIT en double exemplaire à Washington ce vingt-neuvième jour de mars 1979, en anglais et en français, chaque texte faisant également foi.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

POUR LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE:

CYRUS R. VANCE

LLOYD N CUTLER

FOR THE GOVERNMENT OF CANADA:

POUR LE GOUVERNEMENT DU CANADA:

P M TOWE

M CADIEUX

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA TO SUBMIT TO A COURT OF ARBITRATION THE DELIMITATION OF THE MARITIME BOUNDARY IN THE GULF OF MAINE AREA

The Government of the United States of America and the Government of Canada,

Recognizing that they have been unable to resolve by negotiation the differences between them concerning the delimitation of the continental shelf and the fisheries zones of the United States of America and Canada in the Gulf of Maine area,

Desiring to reach an early and amicable settlement of these differences,

Have agreed as follows:

ARTICLE I

1. The Parties shall submit the question posed in Article II to a Court of Arbitration (hereinafter the Court) composed of five persons mutually agreed upon by the Parties, one of whom shall be designated by the Parties to be President.

2. For the purposes of this Agreement, the Court shall be considered constituted when the Parties jointly announce its formation for the purpose set forth in this Agreement.

3. The Parties shall jointly appoint a Registrar. If, one month after the constitution of the Court, a Registrar has not been appointed, the President of the Court shall, within one month, appoint a Registrar.

4. Each Party shall appoint an Agent within one month after the constitution of the Court.

ARTICLE II

1. The Court shall decide, in accordance with the principles and rules of international law applicable in the matter as between the Parties, the following question:

> What is the course of the single maritime boundary that divides the continental shelf and fisheries zones of the United States of America and Canada from a point in latitude 44°11′12″N, longitude 67°16′46″W to a point to be determined by the Court within an area bounded by straight lines connecting the following sets of geographic coordinates: latitude 40°N, longitude 67°W; latitude 40°N, longitude 65°W; latitude 42°N, longitude 65°W?

The decision shall be fully reasoned.

2. The Court shall describe the course of the maritime boundary in terms of geodetic lines connecting geographic coordinates of points. The Court shall also, for illustrative purposes only, depict the course of the maritime boundary on Canadian Hydrographic Service Chart No. 4003 and United States National Ocean Survey Chart No. 13006, in accordance with Article IV.

3. The Court shall appoint a technical expert, jointly nominated by the Parties, to assist it in respect of technical matters and, in particular, in preparing the description of the maritime boundary and the charts referred to in paragraph 2. The Registrar shall provide the expert with copies of each Party's pleadings when such pleadings are communicated to the other Party. The expert shall be present at the oral proceedings and shall be available for such consultations as the Court may deem necessary for the purposes of this Article.

ARTICLE III

1. South and west of the maritime boundary to be determined by the Court in accordance with this Agreement Canada shall not, and north and east of said maritime boundary the United States of America shall not, claim or exercise sovereign rights or jurisdiction for any purpose over the waters or seabed and subsoil.

2. Nothing in this Agreement shall affect the position of either Party with respect to the legal nature and seaward extent of the continental shelf, of fisheries jurisdiction, or of sovereign rights or jurisdiction for any purpose under international law.

ARTICLE IV

The following technical provisions shall be utilized by the Court, any technical expert or experts and the Parties in their presentations to the Court:

(a) All geographic coordinates of points referred to shall be rendered on the 1927 North American Datum.
(b) All straight lines shall be geodetic lines. Curved lines, including parallels of latitude, if necessary for the judgment, shall be computed on the 1927 North American Datum.
(c) Notwithstanding the fact that the Parties utilize different vertical datums in the Gulf of Maine area, the two datums shall be deemed to be common.
(d) Should reference to the low water baseline of either Party be required, the most recent largest scale charts published by the Party concerned shall be utilized.
(e) If a point or points on a particular chart are not on the 1927 North American Datum, the Court shall request the Agent of the appropriate Party to furnish the Court with the corrected datum points.

(f) In recognition of the fact that the Parties do not utilize the same standard set of symbols on nautical charts, the Court or any technical expert or experts shall, if necessary, confer with the Agents and their advisers to insure proper interpretation of the symbol or feature.

(g) The Court, or any technical expert or experts, shall consult with the Parties as may be necessary concerning any common computer programs of the Parties for technical calculations, and utilize such programs as appropriate.

ARTICLE V

1. Neither Party shall introduce into evidence or argument, or publicly disclose in any manner, the nature or content of proposals directed to a maritime boundaries settlement, or responses thereto, in the course of negotiations or discussions between the Parties undertaken since 1969.

2. Each of the Parties shall notify and consult the other prior to introducing into evidence or argument diplomatic or other confidential correspondence between the United States of America and Canada related to the issue of maritime boundaries delimitation.

ARTICLE VI

1. Subject to the provisions of this Agreement, the proceedings of the Court shall be governed by the Rules of Court of the International Court of Justice to the extent they are deemed applicable and appropriate by the Court. The Court shall have the power to prescribe such further rules of procedure as may be necessary.

2. In the absence of unanimity, the decisions of the Court on all questions, whether of substance or procedure, shall be given by a majority vote of its Members, including all questions relating to the competence of the Court, the interpretation of this Agreement, and the decision on the question specified in Article II.

ARTICLE VII

The Court shall establish its seat at a place fixed in agreement with the Parties. Until the seat has been determined, the Court may meet at a place provisionally chosen by the President. The Registrar shall notify the Parties of the address for the filing of their written pleadings and other documents.

ARTICLE VIII

1. The Parties shall use the following procedure before the Court:

(a) The proceedings shall be written and oral.

(b) Without prejudice to any question as to burden of proof, the written proceedings shall consist of:

(i) a Memorial to be submitted by each Party not later than seven months after the Court has been constituted;

(ii) a Counter-Memorial to be submitted by each Party not later than six months after the exchange of Memorials; and
(iii) any further pleadings found by the Court to be necessary.

The Court may extend these time limits at the request of either Party.

2. The written pleadings submitted to the Registrar shall not be communicated to the other Party until the corresponding pleading of that Party has been received by the Registrar. The written pleadings shall not be made available to the public until the oral hearings have commenced, except as otherwise agreed.

3. The oral hearing shall follow the written proceedings, and shall be held in public at such place and time as the Court, after consultation with the two Parties, may determine.

ARTICLE IX

1. The pleadings, written and oral, shall be in the English or French language; the de isions of the Court shall be in both languages.

2. The Court shall, as may be necessary, arrange for translations and interpretations, secretarial and clerical staff, accommodation and the purchase or hire of office equipment.

ARTICLE X

1. The remuneration of the judges of the Court and the general expenses of the arbitration shall be divided equally between the two Parties.

2. Each Party shall bear its own expenses incurred in or for the preparation and presentation of its case.

ARTICLE XI

Any vacancies which may arise on the Court shall be filled in accordance with the following procedure:

(a) If the President of the Court is unable to act, and after two months the Parties have not reached agreement on filling the vacancy and designating the President, the remaining judges of the Court, following consultations with the Parties, shall, within one month, select from among their number a new President. The new President shall in turn, within six months after the vacancy occurred, fill the vacancy following further consultations with the Parties.
(b) If a judge of the Court other than the President is unable to act and after two months the Parties have not reached agreement on a person to fill the vacancy, the President of the Court shall, within six months after the vacancy occurred, fill the vacancy after consultation with the Parties.

ARTICLE XII

1. The decision of the Court on the question posed in Article II shall be final and binding on the Parties.

2. Either Party may, within three months of the rendering of the decision, refer to the Court any dispute as to the meaning and scope of the decision.

3. The Court shall have competence to rectify any clerical or technical error in its decision upon the application of either Party within six months of the rendering of its decision.

ARTICLE XIII

1. *Following the rendering of the decision of the Court, or of the Chamber of the International Court of Justice constituted pursuant to the Special Agreement between the Government of the United States of America and the Government of Canada to Submit to a Chamber of the International Court of Justice the Delimitation of the Maritime Boundary in the Gulf of Maine Area, either Party may request negotiations directed toward reaching agreement on extension of the maritime boundary as far seaward as the Parties may consider desirable.*[1]

2. If the Parties have not reached agreement on the extension of the maritime boundary within one year of the date of such a request, either Party may notify the other of its intent to submit the question of the seaward extension of the maritime boundary for decision by binding third party settlement.

3. If the Parties are unable to agree on the terms of such a submission within three months of such notice, either Party may submit the question of the seaward extension of the maritime boundary to the Court constituted in accordance with this Agreement, provided that at least three of the five judges of the Court are able to serve. In the event that any judge of the Court is unable to serve, any vacancy shall be filled in the manner provided for in Article XI.

4. *If agreement pursuant to paragraph 1 or paragraph 2 is not reached, and the matter cannot be submitted to the Court in accordance with paragraph 3, either Party may call upon the President of the International Court of Justice to select, after consultation with the Parties, five persons to constitute a Court of Arbitration.*[2]

[1] As amended.

The text of the paragraph as signed read as follows:

"1. Following the rendering of the decision of the Court, either Party may request negotiations directed toward reaching agreement on extension of the maritime boundary as far seaward as the Parties may consider desirable."

[2] As amended.

The text of the paragraph as signed read as follows:

"4. If agreement pursuant to paragraph 1 or paragraph 2 is not reached, and the matter cannot be submitted to the Court in accordance with paragraph 3, either Party may call upon the President of the International Court of Justice to select, after consultation with the Parties, five persons, none of whom shall be a national of the United States of America or Canada, to constitute a Court of Arbitration."

5. *If the decision referred to in paragraph 1 was rendered by a Chamber of the International Court of Justice, and this Agreement subsequently enters into force, a Court of Arbitration shall be established, in accordance with Article I of this Agreement, for the purposes of deciding the question referred to in paragraph 2 of this Article.*[1]

6. The provisions of this Agreement shall be applied, *mutatis mutandis*, to the proceedings under this Article, and the decision of the Court of Arbitration shall be final and binding upon the Parties.[2]

ARTICLE XIV

This Agreement shall enter into force in accordance with Articles II or III of the Treaty between the Government of the United States of America and the Government of Canada to Submit to Binding Dispute Settlement the Delimitation of the Maritime Boundary in the Gulf of Maine Area signed this day, and shall remain in force until the said Treaty is terminated.

[1] New paragraph added by amendment.

[2] Paragraph five as signed renumbered paragraph six by amendment.

COMPROMIS ENTRE LE GOUVERNEMENT DES ÉTATS-UNIS D'AMÉRIQUE ET LE GOUVERNEMENT DU CANADA VISANT À SOUMETTRE À UNE COUR D'ARBITRAGE LA QUESTION DE LA DÉLIMITATION DE LA FRONTIÈRE MARITIME DANS LA RÉGION DU GOLFE DU MAINE

Le Gouvernement des États-Unis d'Amérique et le Gouvernement du Canada.

Reconnaissant qu'ils n'ont pu résoudre par voie de négociation leurs différends en matière de délimitation du plateau continental et des zones dans la région du golfe du Maine où l'un et l'autre exercent la jurisdiction exclusive en matière de pêches,

Désirant parvenir à un règlement amical de ces différends dans les meilleurs délais,

Sont convenus de ce qui suit:

ARTICLE I

1. Les Parties soumettent la question posée à l'Article II à une Cour d'arbitrage (ci-après la Cour) composée de cinq personnes dont conviennent mutuellement les Parties, l'une de ces personnes étant désignée à la présidence par les Parties.

2. Aux fins du présent Compromis d'arbitrage, la Cour est réputée constituée lorsque les Parties annoncent conjointement sa constitution aux fins prévues dans le présent Compromis d'arbitrage.

3. Les Parties nomment conjointement un Greffier. Si, un mois après la constitution de la Cour, le Greffier n'a pas été nommé, le Président de la Cour s'acquitte de cette fonction dans le mois qui suit.

4. Chaque Partie nomme un Agent dans le mois qui suit la constitution de la Cour.

ARTICLE II

1. La Cour statute, conformément aux principes et aux règles du droit international applicables en la matière entre les Parties, sur la question suivante:

> Quel est le tracé de la frontière maritime unique divisant le plateau continental et les zones de pêche du Canada et des États-Unis d'Amérique à partir d'un point situé par 44°11′12″ de latitude nord et 67°16′46″ de longitude ouest jusqu'à un point devant être fixé par la Cour à l'intérieur d'une zone délimitée par des lignes droites reliant les coordonnées géographiques suivantes: 40° de

latitude nord et 67° de longitude ouest; 40° de latitude nord et 65° de longitude ouest; 42° de latitude nord et 65° de longitude ouest?

La décision est pleinement motivée.

2. La Cour décrit le tracé de la frontière maritime en termes de lignes géodésiques reliant les coordonnées géographiques des points. La Cour indique également, à seules fins d'illustration, le tracé de la frontière sur la carte n° 4 003 du Service hydrographique du Canada et sur la carte n° 13 006 de la *United States National Ocean Survey*, conformément aux dispositions de l'Article IV.

3. La Cour nomme un expert technique désigné conjointement par les Parties pour l'aider dans la considération des questions techniques et notamment dans la préparation de la description de la frontière maritime et des cartes mentionnées au paragraphe 2 du présent article. Le Greffier fournit à l'expert technique copie des pièces de procédure de chaque Partie lorsque lesdites pièces sont communiquées à l'autre Partie. L'expert assiste à la procédure orale et se tient à la disposition de la Cour pour toute consultation que cette dernière juge nécessaire aux fins du présent article.

ARTICLE III

1. Au sud et à l'ouest de la frontière maritime devant être délimitée par la Cour en application du présent Compromis d'arbitrage, le Canada ne peut, et au nord et à l'est de ladite frontière maritime les États-Unis d'Amérique ne peuvent, à quelque fin que ce soit, revendiquer ou exercer une juridiction ou des droits soverains sur les eaux ou sur le fond marin et le sous-sol de la mer.

2. Aucune disposition du présent Compromis d'arbitrage ne modifie la position de l'une ou l'autre Partie à l'égard de la nature juridique ou de l'étendue vers le large du plateau continental, de la juridiction en matière de pêches, ou de la juridiction ou des droits souverains à toute autre fin en vertu du droit international.

ARTICLE IV

La Cour et l'expert ou les experts techniques ainsi que les Parties dans leurs présentations à la Cour se conforment aux dispositions techniques suivantes:

a) Toutes les coordonnées géographiques des points mentionnés sont établies en fonction de la station origine de la triangulation nord-américaine de 1927.
b) Toutes les lignes droites sont des lignes géodésiques. Si elles sont nécessaires aux fins de l'arrêt, les courbes, y compris les parallèles de latitude, sont calculees en fonction de la station origine de la triangulation nord-americaine de 1927.
c) Bien que les Parties utilisent des niveaux de référence différents dans la région du golfe du Maine, les deux sont considérés comme étant communs.

d) S'il est nécessaire de se référer à la laisse de basse mer de l'une ou l'autre Partie, les cartes les plus récentes et à plus grande échelle possible publiées par la Partie en cause sont utilisées.
e) Si un ou plusieurs points sur une carte donnée ne sont pas établis en fonction de la station origine de la triangulation nord-américaine de 1927, la Cour demande à l'agent de la Partie en cause de lui fournir les points origine corrigés.
f) Comme les Parties n'utilisent pas les mêmes symboles normalisés sur leurs cartes marines, la Cour, l'expert ou les experts techniques consultent au besoin l'agent et leurs conseillers pour assurer l'interprétation correcte du symbole ou du signe en question.
g) La Cour, l'expert ou les experts techniques consultent au besoin les Parties au sujet de tout programme informatique mis au point conjointement par les Parties aux fins de calculs techniques et utilisent de tels programmes au besoin.

ARTICLE V

1. Ni l'une ni l'autre Partie ne communique à titre de preuve ou d'argument ni ne divulgue publiquement de quelque manière que ce soit la nature ou le contenu des propositions en vue d'un règlement du différend relatif à la délimitation des frontières maritimes, ou des réponses à ces propositions, faites au cours des négociations ou des discussions entreprises depuis 1969.

2. Chaque Partie notifie et consulte l'autre Partie avant de communiquer à titre de preuve ou d'argument la correspondance diplomatique ou toute autre correspondance confidentielle entre les États-Unis d'Amérique et le Canada portant sur la question de la délimitation des frontières maritimes.

ARTICLE VI

1. Sous réserve des dispositions du présent Compromis d'arbitrage, la procédure de la Cour est assujettie au Règlement de la Cour internationale de Justice dans la mesure où la Cour le juge applicable et pertinent. La Court a le pouvoir d'arrêter d'autres dispositions générales au besoin.

2. En l'absence d'unanimité, les décisions de la Cour relatives à toutes les questions, tant en ce qui concerne le fond que la procédure, sont prises à la majoritè des membres, y compris toutes les questions concernant la compétence de la Cour, l'interprétation du présent Compromis d'arbitrage et la décision relative à la question énoncée à l'Article II.

ARTICLE VII

La Cour établit son siège en lieu fixé en accord avec les Parties. Tant que la détermination de son siège n'est pas faite, la Cour peut se réunir au lieu choisi à titre provisoire par son Président. Le Greffier communique aux Parties une adresse pour le dépôt de leurs pièces de procédure écrites et autres documents.

ARTICLE VIII

Les Parties suivent la procédure suivante devant la Cour:

a) Les procédures sont écrites et orales.

(b) Sans préjuger aucune question relative à la charge de la preuve, les procédures écrites consistent en:

(i) un mémoire soumis par chacune des Parties au plus tard sept mois aprés la constitution de la Cour;
(ii) un contre-mémoire soumis par chacune des Parties au plus tard six mois après l'échange des mémoires;
(iii) toute autre pièce jugée nécessaire par la Cour.

La Cour peut prolonger ces délais à la demande de l'une ou l'autre Partie.

2. Les pièces de procédure écrites présentées au Greffier ne sont pas communiquées à l'autre Partie tant que le Greffier n'a pas reçu la pièce de procédure correspondante de l'autre Partie. Sauf s'il en est convenu autrement, les pièces de procédure écrites ne sont communiquées au public qu'une fois la procédure orale commencée.

3. La procédure orale suit la procédure écrite et se tient en public au lieu et à la date que peut déterminer la Cour après consultation des deux Parties.

ARTICLE IX

1. Les pièces de procédure écrites et orales sont en anglais ou en français; les décisions de la Cour sont rendues dans ces deux langues.

2. La Cour pourvoit en tant que de besoin à la traduction et à l'interprétation, au personnel de secrétariat et de bureau, ainsi qu'aux locaux et à l'achat ou à la location de matériel de bureau.

ARTICLE X

1. La rémunération des juges de la Cour et les dépenses générales de l'arbitrage sont supportées également par les deux Parties.

2. Chaque Partie supporte ses frais propres entraînés par ou pour la préparation et la présentation de ses thèses.

ARTICLE XI

Il est pourvu à tout siège devenu vacant à la Cour selon la procédure suivante:

a) Si le Président de la Cour ne peut remplir ses fonctions et que, après deux mois, les Parties ne parviennent pas à s'entendre sur le fait de pourvoir à la vacance et sur le choix du nouveau Président, les autres juges de la Cour, après consultations avec les parties, choisissent parmi eux un nouveau Président dans un délai d'un mois. Le nouveau Président pourvoit à la vacance dans les six mois suivant la date à laquelle s'est produite la vacance, á la suite d'autres consultations avec les Parties.

b) Si un juge la Cour autre que le Président ne peut remplir ses fonctions et que, aprés deux mois, les Parties ne parviennent pas à s'entendre sur de choix d'un candidat, le Président de la Cour pourvoit au siège vacant dans les six mois suivant le date à laquelle s'est produite la vacance, à la suite de consultations avec les Parties.

ARTICLE XII

1. La décision de la Cour relative à la question posée à l'Article II est définitive et obligatoire pour les Parties.

2. L'une ou l'autre Partie peut, dans les trois mois suivant la décision, déférer à la Cour toute contestation en ce qui concerne l'interprétation et la portée de la décision.

3. La Cour est habilitée à corriger toute erreur technique ou d'écritures dans sa décision à la demande de l'une ou l'autre Partie, dans les six mois suivant sa décision.

ARTICLE XIII

1. *A la suite de la décision de la Cour ou de la Chambre de la Cour internationale de Justice constituée en application du Compromis entre le Gouvernement des États-Unis d'Amérique et le Gouvernement du Canada visant à soumettre à une Chambre de la Cour internationale de Justice la question de la délimitation de la frontière maritime dans la région du golfe du Maine, l'une ou l'autre Partie peut demander la tenue de négociations en vue d'une entente sur l'extension de la frontière maritime vers le large sur une aussi grande distance que les Parties le jugent souhaitable.*[1]

2. Si les Parties ne parviennent pas à s'entendre sur l'extension de la frontière maritime dans l'année qui suit la date d'une telle demande, l'une ou l'autre Partie peut notifier l'autre de son intention de soumettre la question de l'extension de la frontière maritime vers le large au règlement obligatorie par tierce partie.

3. Si les Parties ne parviennent pas à s'entendre sur les conditions d'une telle soumission dans les trois mois qui suivent cette notification, l'une ou l'autre Partie peut soumettre la question de l'extension de la frontière maritime vers le large à la Cour constituée en conformité du présent Compromis d'arbitrage, pourvu qu'au moins trois juges de la Cour soient en mesure de remplir ces fonctions. Si un juge de la Cour ne peut remplir ses fonctions, il est pourvu à la vacance de la manière prescrite à l'Article XI.

4. Si les Parties ne parviennent pas à s'entendre conformément aux dispositions du paragraphe 1 ou du paragraphe 2 et que la question ne

[1] Tel qu'amendé.

Le text de l'article, tel que signé, avait la teneur suivante:

"1. À la suite de la décision de la Cour, l'une ou l'autre Partie peut demander la tenue de négociations en vue d'une entente sur l'extension de la frontière maritime vers le large sur une aussi grande distance que les Parties le jugent souhaitable."

peut être soumise à la Cour en application du paragraphe 3, l'une ou l'autre Partie peut demander au Président de la Cour internationale de Justice de choisir, après consultation avec les Parties, cinq personnes qui constitueront une Cour d'arbitage.[1]

5. *Si la décision visée au paragraphe 1 est rendue par une Chambre de la Cour internationale de Justice et que le présent Compromis entre subséquemment en vigueur, une Cour d'arbitrage est constituée conformément aux dispositions de l'Article I du présent Compromis, aux fins de statuer sur la question visée au paragraphe 2 du présent Articles.*[2]

6. Les dispositions du présent Compromis d'arbitrage s'appliquent, *mutatis mutandis*, à la procédure étabile dans le présent article et la décision de la Cour d'arbitrage est définitive et obligatoire pour les Parties.[3]

ARTICLE XIV

Le présent Compromis d'arbitrage entre en vigueur conformément à l'article II ou à l'article III du Traité entre le Gouvernement des États-Unis d'Amérique et le Gouvernement du Canada visant à soumettre au règlement obligatoire le différend relatif à la délimitation de la frontière maritime dans la région du golfe du Maine, signé en ce jour et demeure en vigueur jusqu'à la dénonciation dudit Traité.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Washington this twenty-ninth day of March 1979, in the English and French languages, each text being equally authentic.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé le présent compromis.

FAIT en double exemplaire à Washington ce vingt-neuvième jour de mars 1979, en anglais et en français, chaque texte faisant également foi.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:	FOR THE GOVERNMENT OF CANADA:
POUR LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE:	POUR LE GOUVERNEMENT DU CANADA:
CYRUS R. VANCE	P M TOWE
LLOYD N CUTLER	M CADIEUX

[1] Tel qu'amendé.

Le texte de l'article, tel que signé, avait la teneur suivante:

"4. Si les Parties ne parviennent pas à s'entendre conformément aux dispositions du paragraphe 1 ou du paragraphe 2 et que la question ne peut être soumise à la Cour en application du paragraphe 3, l'une ou l'autre Partie peut demander au Président de la Cour internationale de Justice de choisir, aprés consultation avec les Parties, cinq personnes non ressortissantes des États-Unis ou du Canada qui constitueront une Cour d'arbitrage."

[2] Nouveau paragraphe ajouté par amendment.

[3] Le paragraphe 5, tel que signé, devant le paragraphe 6 par amendement.

NORWAY

Double Taxation: Taxes on Income and Property

Protocol amending the convention of December 3, 1971.
Signed at Oslo September 19, 1980;
Transmitted by the President of the United States of America to the Senate December 2, 1980 (S. Ex. Z, 96th Cong., 2d Sess.);
Reported favorably by the Senate Committee on Foreign Relations November 10, 1981 (S. Ex. Rept. No. 97–32, 97th Cong., 1st Sess.);
Advice and consent to ratification by the Senate, with an understanding, November 18, 1981;
Ratified by the President, subject to said understanding, December 3, 1981;
Ratified by Norway April 30, 1981;
Ratifications exchanged at Washington December 15, 1981;
Proclaimed by the President January 12, 1982;
Entered into force December 15, 1981.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Protocol amending the Convention between the United States of America and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Property, signed at Oslo on December 3, 1971, which Protocol was signed at Oslo on September 19, 1980, the text of which is hereto annexed;

The Senate of the United States of America by its resolution of November 18, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Protocol, subject to the understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the

information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

The Protocol was ratified, subject to the aforesaid understanding by the President of the United States of America on December 3, 1981, in pursuance of the advice and consent of the Senate, and was ratified on the part of the Kingdom of Norway;

The instruments of ratification of the Protocol were exchanged at Washington on December 15, 1981, and accordingly the Protocol entered into force on December 15, 1981, effective as specified in Article XIII;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim and make public the Protocol to the end that it be observed and fulfilled with good faith on and after December 15, 1981, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twelfth day of January in the year of our Lord one thousand nine hundred eighty-two
[SEAL] and of the Independence of the United States of America the two hundred sixth.

RONALD REAGAN

By the President:
ALEXANDER M. HAIG, JR.
Secretary of State

PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND PROPERTY, SIGNED AT OSLO ON DECEMBER 3, 1971 [1]

The United States of America and the Kingdom of Norway, desiring to conclude a Protocol to amend the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Property, signed at Oslo on December 3, 1971, have agreed as follows:

[1] TIAS 7474; 23 UST 2832.

ARTICLE I

(1) Paragraph (2) of Article 1 (Taxes Covered) shall be deleted and replaced by the following:

"(2) (a) This Convention shall also apply to:

(i) taxes substantially similar to those covered by paragraph (1) which are imposed in addition to, or in place of, existing taxes after the date of signature of this Convention; and

(ii) in the case of Norway, the national and municipal taxes on income (including contributions to the tax equalization fund), and the special tax administered under section 5 of the Act of 13 June 1975, No. 35, relating to the taxation of submarine petroleum resources, as in effect on the date of signature of the Protocol to this Convention, and taxes substantially similar thereto enacted after such date.

(b) The terms "United States tax" and "Norwegian tax" used in paragraph (1) are deemed to include, respectively, the taxes imposed by the United States and Norway described in this paragraph (2)."

(2) Paragraph (1) of Article 23 (Relief From Double Taxation), and the introductory language that precedes paragraph (1) of Article 23, shall be deleted and replaced by the following:

"(1) in the case of the United States, double taxation shall be avoided as follows:

(a) in accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the general principle hereof), the United States shall allow to a resident or citizen of the United States as a credit against the United States tax on income the appropriate amount of income taxes imposed by Norway; and, in the case of a United States company owning at least 10 percent of the voting stock of a company which is a resident of Norway from which it receives dividends in any taxable year, the United States shall allow as a credit against the United States tax on income the appropriate amount of income taxes imposed by Norway on the company which is a resident of Norway with respect to the profits out of which such dividends are paid. For purposes of applying the United States credit in relation to taxes paid or accrued to Norway, the Norwegian taxes referred to in paragraphs (1)(b) and (2) of Article 1 (Taxes Covered) (other than the national and municipal taxes on capital, the municipal tax on real property, and taxes substantially similar to such taxes on capital and real property but imposed by Norway after the date of signature of the Convention) shall be considered to be income taxes, and shall be allowed as a credit against the United States tax on income, subject to the provisions of subparagraph (b).

(b) The appropriate amount allowed as a credit by the United States shall be based upon the amount of income taxes paid or accrued to Norway. However, the credit shall not exceed the limitations (for the purpose of limiting the credit to the United States tax on income from sources outside of the United States) provided by United States law for the taxable year. In addition, in the case of income taxes paid or accrued to Norway by persons subject to the special tax referred to in subparagraph (2)(a)(ii) of Article 1 (Taxes Covered), or to a substantially similar tax, the appropriate amount allowed as a credit by the United States shall be limited to the amount of income taxes paid or accrued to Norway attributable to Norwegian source taxable income in the following way:

(i) with respect to income taxes paid or accrued to Norway on oil and gas extraction income from oil or gas wells in Norway, the amount to be allowed as a credit for a taxable year shall not exceed the product of:

(a) the maximum statutory United States tax rate applicable to a corporation for such taxable year, and

(b) the amount of such income.

(ii) further, the lesser of:

(a) the amount of taxes paid or accrued to Norway on oil and gas extraction income from oil or

gas wells in Norway that is not allowable as a credit under subparagraph (i), or

(b) two percent of such income for the taxable year

shall be deemed to be income taxes paid or accrued in the two preceding or five succeeding taxable years, to the extent not deemed paid or accrued in a prior taxable year, and shall be allowable as a credit in the year in which it is deemed paid or accrued subject to the limitation in subparagraph (i).

(iii) the provisions of subparagraphs (i) and (ii) shall apply separately, in the same way (but with the deletion, in the case of subparagraph (ii), of the words "the lesser of (a)" and "or (b) two percent of such income for the taxable year") to the amount of income taxes paid or accrued to Norway on:

(a) Norwegian source oil related income not described in subparagraph (i); and

(b) other Norwegian source income."

ARTICLE II

The following new Article 4A (Offshore Activities) shall be inserted after Article 4 (Permanent Establishment):

"ARTICLE 4A

OFFSHORE ACTIVITIES

(1) Notwithstanding the provisions of Articles 4 (Permanent Establishment) and 13 (Independent Personal Services), a resident of a Contracting State who carries on activities in the other Contracting State in connection with the exploration or exploitation of the seabed and sub-soil and their natural resources situated in that other Contracting State shall be deemed to be carrying on in respect of those activities a business in that other Contracting State through a permanent establishment or fixed base situated therein.

(2) The provisions of paragraph (1) shall not apply where the activities are carried on for a period not exceeding 30 days in the aggregate in any 12 month period. However, for the purpose of this paragraph, activities carried on by a person related to another person within the meaning of Article 7 (Related Persons) shall be regarded as carried on by the last-mentioned person if the activities in question are substantially the same as those carried on by that last-mentioned person.

(3) Notwithstanding the preceding paragraphs, the provisions of Article 6 (Shipping and Air Transport) shall apply to profits derived by a resident of a Contracting State from the transportation by ship or aircraft of supplies or personnel to a location

where activities in connection with the exploration or exploitation of the seabed and sub-soil and their natural resources are being carried on in the other Contracting State, or from the operation of tugboats and similar vessels in connection with such activities.

(4) Notwithstanding Article 14 (Dependent Personal Services), wages, salaries and similar remuneration derived by an individual who is a resident of one of the Contracting States from labor or personal services in connection with the exploration or exploitation of the seabed and sub-soil and their natural resources situated in the other Contracting State shall not be taxable in that other State to the extent such wages, salaries and similar remuneration are attributable to:

(a) Labor or personal services performed in that other State for a period of 60 days in the taxable year; or

(b) If that other State is Norway, labor or personal services performed on behalf of an employer who is a resident of the United States with respect to petroleum reservoirs which extend between Norway and any other State, provided that there is an agreement between Norway and that other State for joint exploitation of the reservoir and the exploitation is performed simultaneously in both States. This provision shall, however, only come into force by a separate agreement between the competent authorities of the Contracting States.

(5) Wages, salaries and similar remuneration derived by an individual who is a resident of a Contracting State in respect of labor or personal services rendered aboard a ship or aircraft covered by paragraph (3) shall be taxed in accordance with paragraph (3) of Article 14 (Dependent Personal Services)."

ARTICLE III

Paragraph (1) of Article 6 (Shipping and Air Transport) shall be deleted and replaced by the following:

"(1) Notwithstanding Article 5 (Business Profits), income which a resident of the United States derives from the operation in international traffic of ships or aircraft shall be exempt from Norwegian tax."

ARTICLE IV

(1) Paragraph (2) of Article 8 (Dividends) shall be deleted and replaced by the following:

"(2) The rate of tax imposed by one of the Contracting States on dividends derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed 15 percent of the gross amount actually distributed."

(2) Paragraph (4) of Article 8 (Dividends) shall be deleted and replaced by the following:

"(4) Dividends paid by a corporation of one of the Contracting States shall be exempt from tax by the other Contracting State except insofar as:

(a) The recipient of the dividends is a resident of the other Contracting State;

(b) In the case of dividends paid by a Norwegian corporation, the recipient of the dividends is a citizen of the United States;

(c) The recipient of the dividends has a permanent establishment in that other State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment; or

(d) In cases where that other State is the United States, such dividends are paid out of profits attributable to one or more permanent establishments which such corporation had in that other State, provided that such profits constituted at least 50 percent of such corporation's gross income from all sources.

Where subparagraph (d) applies and subparagraphs (a), (b) and (c) do not apply, any such tax shall be subject to the limitation of paragraph (2)."

ARTICLE V

Article 9 (Interest) shall be deleted and replaced by the following:

"ARTICLE 9

INTEREST

(1) Interest derived from sources within one of the Contracting States by a resident of the other Contracting State

may be taxed by both Contracting States; provided, however, that such interest shall be exempt in the first-mentioned State in any calendar year in which the other State exempts similar interest derived from sources within that State from taxation under its domestic law.

(2) The rate of tax imposed by a Contracting State on interest derived from sources within that State by a resident of the other Contracting State shall in no event exceed 10 percent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph (2), interest derived from sources within one of the Contracting States by a resident of the other Contracting State shall in all events be exempt from tax by the first-mentioned State if:

(a) The interest is beneficially owned by, or is paid by, a Contracting State, a political subdivision or local authority thereof or an instrumentality, sub-division or authority of a Contracting State which is not subject to tax by that State;

(b) The interest is beneficially owned by a resident of a Contracting State with respect to debt obligations guaranteed or insured by that State, a political subdivision or local authority thereof or an instrumentality, subdivision or authority of such State which is not subject to tax by that State;

(c) The interest is paid by a purchaser to a seller in connection with a commercial credit resulting from deferred payments for goods, merchandise or services;

(d) The interest is paid with respect to a loan of any nature made by a bank; or

(e) The interest is paid with respect to an obligation outstanding on the date of signature of this Protocol.

(4) The term "interest" as used in this Convention means income from bonds, debentures, Government securities, notes or other evidences of indebtedness, whether or not secured, and debt-claims of every kind, as well as all other income which, under the taxation law of the Contracting State in which the income has its source, is assimilated to income from money lent.

(5) Paragraphs (2) and (3) shall not apply if the beneficial owner of the interest, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment. In such a case, see paragraph (6)(a) of Article 5 (Business Profits).

(6) Where any interest paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this Article shall apply only to so much of the interest as would have been paid to an unrelated person. In such a case the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

(7) Interest paid by a resident of one of the Contracting States to a person other than a resident of the other Contracting State (and in the case of interest paid by a Norwegian corporation, to a person other than a citizen of the United States) shall be exempt from tax by the other Contracting State. This paragraph shall not apply if:

(a) Such interest is treated as income from sources within the other Contracting State under paragraph (2) of Article 24 (Source of Income); or

(b) The recipient of the interest has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment."

ARTICLE VI

(1) Paragraph (1) of Article 12 (Capital Gains) shall be amended by redesignating subparagraphs (b) and (c) as, respectively, (d) and (e), and by inserting after subparagraph (a) the following new subparagraphs (b) and (c):

"(b) The gain is derived by a resident of one of the Contracting States from the sale, exchange or other disposition of:

(i) Stock of a corporation the property of which consists principally of real property situated within the other Contracting State; or

(ii) An interest in a partnership, trust or estate the property of which consists principally of real property situated within the other Contracting State.

For the purposes of this subparagraph, the term "real property" includes stock of a corporation referred to in subparagraph (b)(i) or an interest in a partnership, trust or estate referred to in subparagraph (b)(ii).

(c) The gain is derived by a resident of one of the Contracting States from the sale, exchange or other disposition of stock of a corporation which is a resident of the other Contracting State, but only if:

(i) The recipient of the gain owns within the 12 month period preceding such sale, exchange or other disposition more than 25 percent of the stock of that corporation; and

(ii) More than 50 percent of the fair market value of the gross assets of that corporation used in its trade or business are physically located in the other Contracting State on the last day of each of the three taxable years preceding the sale, exchange or other disposition (or, if the corporation has been in existence for less than 3 years, on the last day of each preceding taxable year of the corporation)."

(2) Paragraphs (3) and (4) of Article 12 (Capital Gains) shall be deleted and a new paragraph (3) shall be inserted after paragraph (2):

"(3) In the case of gains described in paragraph (1)(a), see Article 11 (Income from Real Property). In the case of gains described in paragraph (1)(d), see paragraph 6(a) of Article 5 (Business Profits)."

(3) Paragraph (8) of Article 24 (Source of Income) shall be deleted and replaced by the following:

"(8) Income from gains described in paragraph (1) of Article 12 (Capital Gains), derived by a resident of a Contracting State but which may be taxed by the other Contracting State, shall be treated as income from sources within that other Contracting State."

ARTICLE VII

(1) Subparagraph (c) of paragraph (2) of Article 13 (Independent Personal Services) shall be deleted and replaced by the following:

"(c) The individual is a public entertainer, such as a theater, motion picture or television artist, a musician or an athlete, and the income is derived from his personal services as a public entertainer provided that he is present in that other Contracting State for more than a total of 90 days during the taxable year or such income exceeds in the aggregate 10,000 United States dollars or its equivalent in Norwegian Kroner during the taxable year."

(2) The following new Article 14A (Artistes and Athletes) shall be inserted after Article 14 (Dependent Personal Services):

"ARTICLE 14A

ARTISTES AND ATHLETES

Where income in respect of activities exercised by an entertainer or an athlete in his capacity as such accrues not to that entertainer or athlete but to another person, that income may, notwithstanding the provisions of Articles 5 (Business Profits), 13 (Independent Personal Services), and 14 (Dependent Personal Services), be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised. For purposes of the preceding sentence, income of an entertainer or athlete shall be deemed not to accrue to another person if it is established that neither the entertainer or athlete, nor persons related thereto, participate directly or indirectly in the profits of such other person in any manner, including the receipt of deferred remuneration, bonuses, fees, dividends, partnership distributions or other distributions."

ARTICLE VIII

Article 19 (Social Security Payments) shall be deleted and replaced by the following:

"ARTICLE 19

SOCIAL SECURITY PAYMENTS

Social Security payments and other public pensions paid by one of the Contracting States to an individual who is a resident of the other Contracting State or a citizen of the United States

shall be taxable only in the first-mentioned Contracting State. This Article shall not apply to payments described in Article 17 (Governmental Functions)."

ARTICLE IX

Paragraph (3) of Article 22 (General Rules of Taxation) shall be amended by adding after the first sentence thereof the following:

"For this purpose the term "citizen" shall include a former citizen whose loss of citizenship had as one of its principal purposes the avoidance of income tax, but only for a period of ten years following such loss."

ARTICLE X

Paragraph (2) of Article 23 (Relief from Double Taxation) shall be amended as follows:

(1) The first sentence of subparagraph (a) shall be amended by changing "subject to the provisions of subparagraphs (b) or (c) of this paragraph" to "subject to the provisions of subparagraphs (b), (c), or (d) of this paragraph".

(2) Subparagraph (c) shall be deleted and replaced with the following:

"(c) In determining its tax on a Norwegian corporation receiving dividends from a United States corporation in which it owns 10 percent or more of the stock, Norway shall allow a credit against the tax otherwise payable by the Norwegian

corporation for that part of United States tax imposed on the profits of the United States corporation out of which the dividends were paid, in the proportion that the dividends received bear to the accumulated profits of the United States corporation in excess of that tax, provided that an amount equal to such credit is recognized by the Norwegian corporation as income in the year in which the dividend is received. Such credit shall not, however, exceed that part of the tax, as computed before the credit is given, which is appropriate to the income derived from sources in the United States under the rules set forth in Article 24 (Source of Income)."

(3) A new subparagraph (d) shall be added as follows:

"(d) Where a resident of Norway derives income which, in accordance with paragraph (1) of Article 4(A) (Offshore Activities), may be taxed in the United States, Norway may tax such income but shall allow as a credit against the tax in Norway on that income an amount equal to the tax paid in the United States. Such credit shall not, however, exceed that part of the tax as computed before the credit is given, which is attributable to the income which may be taxed in the United States."

ARTICLE XI

(1) Paragraph (4) of Article 27 (Mutual Agreement Procedure) shall be amended by adding at the end thereof the following:

"Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States."

(2) The following new paragraph (5) shall be added to Article 27 (Mutual Agreement Procedure):

"(5) Where any provision in this Convention specifies an amount in currency, the competent authorities may agree to adjust such amount upward in light of economic developments."

ARTICLE XII

Paragraph (3) of Article 28 (Exchange of Information) shall be deleted and replaced by the following:

"(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall obtain the information to which the request relates in the same manner and to the same extent as if the tax of the first-mentioned State were the tax of that other State and were being imposed by that other State. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the form of depositions of witnesses and authenticated

copies of unedited original documents (including books, papers, statements, records, accounts or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of such other State with respect to its own taxes."

ARTICLE XIII

(1) This Protocol shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) This Protocol shall enter into force upon the exchange of instruments of ratification[1] and its provisions shall have effect:

(a) In respect of credits against United States tax allowed pursuant to Article I of this Protocol, as of the sixth taxable year preceding January 1 of the year in which this Protocol enters into force;

(b) In respect of tax withheld at the source, to amounts paid on or after the first day of the sixth month next following the date on which this Protocol enters into force;

(c) In respect of other taxes, for taxable years beginning on or after January 1 of the year following the year in which this Protocol enters into force.

DONE at Oslo in duplicate, in the English and Norwegian languages, both texts having equal authenticity, this 19th day of September, 1980.

FOR THE UNITED STATES OF AMERICA: [1]

FOR THE KINGDOM OF NORWAY: [2]

[1] Sidney A. Rand.
[2] Ulf Sand.

PROTOKOLL

OM ENDRINGER I OVERENSKOMST MELLOM AMERIKAS FORENTE STATER OG KONGERIKET NORGE TIL UNNGÅELSE AV DOBBELTBESKATNING OG FOREBYGGELSE AV SKATTEUNNDRAGELSE MED HENSYN TIL SKATTER AV INNTEKT OG FORMUE, UNDERTEGNET I OSLO 3. DESEMBER 1971

Amerikas Forente Stater og Kongeriket Norge, som ønsker å utferdige en protokoll om endringer i overenskomst til unngåelse av dobbeltbeskatning og forebyggelse av skatteunndragelse med hensyn til skatter av inntekt og formue, undertegnet i Oslo 3. desember 1971, er kommet overens om følgende:

Artikkel I

(1) Punkt (2) i artikkel 1 (de skatter som overenskomsten gjelder) skal utgå og erstattes med følgende:

"(2) (a) Denne overenskomst skal også omfatte:

(i) skatter av vesentlig lignende art som dem som er nevt i punkt (1) som blir utskrevet i tillegg til, eller i stedet for, de gjeldende skatter etter at denne overenskomst er blitt underskrevet; og

(ii) for så vidt angår Norge, inntektsskatt til stat, fylkeskommuner og kommuner (herunder fellesskatt til Skattefordelingsfondet) og særskatt til staten, omhandlet i prg. 5 i lov av 13. juni 1975 nr. 35 om skattlegging av undersjøiske petroleumsforekomster m.v., slik de gjelder den dato protokollen til denne overenskomst underskrives, og skatter av vesentlig lignende art som blir vedtatt etter denne dato.

(b) Uttrykkene "skatt i De Forente Stater" og "norsk skatt" i punkt (1) skal anses å omfatte de skatter beskrevet i dette punkt (2) som henholdsvis utskrives av De Forente Stater og Norge."

(2) Punkt (1) i artikkel 23 (unngåelse av dobbeltbeskatning) og innledningen til punkt (1) i artikkel 23 skal utgå og erstattes med følgende:

"(1) For så vidt angår De Forente Stater skal dobbeltbeskatning unngås slik:

(a) i samsvar med de bestemmelser og begrensninger som er fastsatt i De Forente Staters lovgivning (slik som den fra tid til annen måtte bli endret uten å påvirke de alminnelige retningslinjer i dette punkt), skal De Forente Stater innrømmme en person som er bosatt i eller er borger av De Forente Stater, godskrivning mot skatt i De Forente Stater av inntekt for et tilsvarende beløp av

inntektsskatter utskrevet av Norge, og for så vidt angår et selskap hjemmehørende i De Forente Stater som eier minst 10 prosent av de stemmeberettigede aksjer i et selskap som er hjemmehørende i Norge, fra hvilket det mottar dividender i løpet av et inntektsår, skal De Forente Stater innrømme godskrivning mot inntektsskatt i De Forente Stater for et tilsvarende beløp av inntektsskatt utskrevet av Norge på selskapet som er hjemmehørende i Norge med hensyn til fortjeneste hvorav slike dividender er utbetalt. Med hensyn til godskrivning i De Forente Stater av skatter betalt til eller påløpt i Norge skal de norske skatter som er omhandlet i punktene (1) (b) og (2) i artikkel 1 (de skatter overenskomsten gjelder) (bortsett fra formuesskatten til stat og kommune og kommunal eiendomsskatt og skatter av vesentlig samme art som slike skatter på formue og fast eiendom men utskrevet av Norge etter at overenskomsten er blitt underskrevet) skal anses som inntektsskatt og skal innrømmes godskrevet mot De Forente Staters inntektsskatt, med forbehold av bestemmelsene i underpunkt (b).

(b) Det rette beløp som skal innrømmes godskrevet av De Forente Stater skal baseres på det beløp inntektsskatt som er betalt eller påløpt i Norge. Godskrivningen skal imidlertid ikke overskride de begrensninger (i den hensikt å begrense godskrivning til inntektsskatt til De Forente Stater på inntekter fra kilder som ligger utenfor De Forente Stater) som blir fastsatt i De Forente Staters lovgivning for inntektsåret. I tillegg, for så vidt angår inntektsskatt betalt eller påløpt i Norge fra personer som er undergitt den særskatt som er omtalt i underpunkt (2) (a)(ii) i artikkel 1 (de skatter som overenskomsten gjelder) eller en skatt av vesentlig lignende art, skal det rette beløp som tillates godskrevet av De Forente Stater begrenses til det beløp av inntektsskatt som er betalt eller påløpt i Norge som kan henføres til skattepliktig inntekt fra norske kilder, på følgende måte:

(i) med hensyn til inntektsskatt betalt eller påløpt i Norge på inntekt vunnet ved utvinning av olje og gass fra olje- og gasskilder i Norge, skal beløpet

som kan godskrives i et inntektsår ikke overstige produktet av:

(a) den maksimumssats som i De Forente Stater får anvendelse på et selskap for vedkommende inntektsår, og

(b) størrelsen av slik inntekt.

(ii) Videre, det minste av følgende beløp:

(a) størrelsen av inntektsskatt betalt eller påløpt i Norge på inntekt vunnet ved utvinning av olje og gass fra olje- og gasskilder i Norge som ikke kan godskrives etter underpunkt (i), eller

(b) to prosent av slik inntekt for vedkommende inntektsår

skal anses for å være inntektsskatter betalt eller påløpt i de to foregående eller fem etterfølgende inntektsår, i den utstrekning de ikke er ansett betalt eller påløpt i et tidligere inntektsår, og skal godskrives i det år i hvilket det er ansett betalt eller påløpt, med den begrensning som er angitt i underpunkt (i).

(iii) Bestemmelsene i underpunktene (i) og (ii) får, hver for seg, tilsvarende anvendelse (men, for så vidt angår underpunkt (ii), med utelatelse av ordene "det minste av følgende beløp (a) "og" eller (b) to prosent av slik inntekt for vedkommende inntektsår") på det beløp av inntektsskatt betalt eller påløpt i Norge av:

(a) inntekt fra norske kilder som har forbindelse med oljeutvinning og som ikke er beskrevet i underpunkt (i); og

(b) annen inntekt fra norske kilder."

ARTIKKEL II

Følgende nye artikkel 4 A (virksomheter utenfor kysten) skal føyes inn etter artikkel 4, (fast driftssted):

"ARTIKKEL 4 A
VIRKSOMHETER UTENFOR KYSTEN

(1) Uansett bestemmelsene i artiklene 4 (fast driftssted) og 13 (selvstendige personlige tjenester), skal en person bosatt i en Kontraherende Stat som driver virksomhet i den annen Kontraherende Stat knyttet til undersøkelse eller utnyttelse av havbunnen og undergrunnen og deres naturforekomster i den annen Kontraherende Stat, anses for, med hensyn til slik virksomhet, å drive forretningsvirksomhet i den annen Kontraherende Stat gjennom et fast driftssted eller fast innretning der.

(2) Bestemmelsen i punkt (1) skal ikke komme til anvendelse når virksomheten drives over et tidsrom som ikke overstiger samlet 30 dager i noen 12 måneders periode. Imidlertid skal, med hensyn til dette punkt, virksomhet drevet av en person med tilknytning til en annen person i den betydning artikkel 7 angir, (personer med fast tilknytning til hverandre) anses for å være drevet av sistnevnte person hvis angjeldende virksomhet er vesentlig den samme som virksomhet drevet av sistnevnte person.

(3) Uansett de foranstående punkter, skal bestemmelsene i artikkel 6 (skipsfart og luftfart) komme til anvendelse på fortjeneste oppebåret av en person bosatt i en Kontraherende Stat ved transport med skip eller luftfartøy av forsyninger eller personell til et sted der virksomhet drives i tilknytning til undersøkelse eller utnyttelse av havbunnen og undergrunnen og deres naturforekomster i den annen Kontraherende Stat, eller ved drift av taubåter og lignende båter

i forbindelse med slik virksomhet.

(4) Uansett artikkel 14 (uselvstendige personlige tjenester), skal lønn og annen lignende godgjørelse som en fysisk person bosatt i en av de Kontraherende Stater, mottar i anledning av arbeid eller personlig tjeneste i forbindelse med undersøkelse eller utnyttelse av havbunnen og undergrunnen og deres naturforekomster i den annen Kontraherende Stat, ikke kunne skattlegges i denne annen stat i den utstrekning slike lønnsinntekter eller lignende godtgjørelser kan henføres til:

(a) arbeid eller personlige tjenester utført i den annen Stat i et tidsrom på 60 dager i løpet av inntektsåret; eller

(b) hvis den annen Stat er Norge, arbeid eller personlige tjenester utført på vegne av en arbeidsgiver som er bosatt i De Forente Stater når det gjelder petroleumsforekomster som strekker seg mellom Norge og enhver annen Stat, såfremt det foreligger en avtale mellom Norge og denne annen Stat om felles utnyttelse av forekomstene og utnyttelsen skjer samtidig i begge stater. Denne bestemmelse skal imidlertid bare tre i kraft ved særskilt avtale mellom de kompetente myndigheter i de Kontraherende Stater.

(5) Lønn og annen lignende godtgjørelse oppebåret av en fysisk person som er bosatt i en Kontraherende Stat for arbeid eller personlige tjenester utført om bord i skip eller luftfartøy angitt i punkt (3), skal skattlegges i overensstemmelse med punkt (3) i artikkel 14 (uselvstendige personlige tjenester)."

ARTIKKEL III

Punkt (1) i artikkel 6 (skipsfart og luftfart) skal utgå og erstattes med følgende:

"(1) Uansett artikkel 5 (fortjeneste ved forretningsvirksomhet) skal fortjeneste som en person bosatt i De Forente Stater oppebærer ved drift av skip eller luftfartøyer i internasjonal fart, være unntatt fra norsk skatt."

ARTIKKEL IV

(1) Punkt (2) i artikkel 8 (dividender) skal utgå og erstattes med følgende:

"(2) Den skatt som oppkreves av en av de Kontraherende Stater av dividender oppebåret fra kilder i denne Kontraherende Stat av en person bosatt i den annen Kontraherende Stat skal ikke overstige 15 pst. av det bruttobeløp som reelt er utdelt."

(2) Punkt (4) i artikkel 8 (dividender) skal utgå og erstattes med følgende:

"(4) Dividender som utdeles av et selskap hjemmehørende i en av de Kontraherende Stater skal unntas fra skatt i den annen Kontraherende Stat såfremt ikke:

(a) mottageren av dividendene er en person bosatt i den annen Kontraherende Stat;

(b) når det gjelder dividender utdelt av et norsk selskap, når mottageren av dividendene er statsborger av De Forente Stater;

(c) mottageren av dividendene har et fast driftssted i den annen Stat og aksjene som dividendene er utdelt av er direkte knyttet til et slikt fast driftssted; eller

(d) når den annen Stat er De Forente Stater, og slike dividender er utdelt av fortjeneste som kan henføres til ett eller flere faste driftssteder som dette selskap hadde i den annen Stat, forutsatt at slik fortjeneste utgjorde minst 50 prosent. av dette selskaps brutto inntekter

fra enhver kilde.

Når bokstav (d) kommer til anvendelse og bokstavene (a), (b) og (c) ikke kommer til anvendelse, skal enhver slik skatt begrenses i samsvar med punkt (2)."

ARTIKKEL V

Artikkel 9 (renter) skal utgå og erstattes med følgende:

"ARTIKKEL 9
RENTER

(1) Renter som oppebæres fra kilder i en av de Kontraherende Stater av en person bosatt i den annen Kontraherende Stat, kan skattlegges i begge Kontraherende Stater; dog skal slike renter unntas fra beskatning i den førstnevnte Stat (kildestaten) i ethvert kalenderår hvori den annen Stat i henhold til sin interne lovgivning unntar fra beskatning lignende renter oppebåret fra kilder i denne Stat.

(2) Den skatt som en Kontraherende Stat beregner av renter oppebåret fra kilder innen denne Stat av en person bosatt i den annen Kontraherende Stat skal ikke i noe tilfelle overstige 10 prosent av rentenes bruttobeløp.

(3) Uansett bestemmelsen i punkt (2) skal renter mottatt fra kilder i en av de Kontraherende Stater av en person bosatt i den annen Kontraherende Stat i alle tilfelle være unntatt fra skatt i førstnevnte Stat hvis:

(a) rentene rettmessig tilkommer eller er betalt av en Kontraherende Stat, en av dens regionale eller lokale forvaltningsmyndigheter eller en institusjon eller forvaltningsmyndighet under en Kontraherende Stat som ikke er skattepliktig i denne Stat;

(b) rentene rettsmessig tilkommer en person bosatt i en Kontraherende Stat og knytter seg til et gjeldsforhold garantert eller forsikret av denne Stat, en av dens regionale eller lokale forvaltningsmyndigheter eller

en institusjon eller forvaltningsmyndighet under en slik Stat som ikke er skattepliktig i denne Stat;

(c) rentene er betalt av en kjøper til en selger i forbindelse med forretningskreditt og som skyldes forsinket betaling for varer, ting eller tjenester;

(d) rentene er betalt i forbindelse med enhver type lån ytet av en bank; eller

(e) rentene er betalt i forbindelse med en utestående forpliktelse som forelå ved tidspunktet for undertegningen av denne protokoll.

(4) Uttrykket "renter" slik det er brukt i denne overenskomst betyr inntekt av obligasjoner, statsobligasjoner, ihendehaverobligasjoner, gjeldsbrev eller andre bevis, uansett om det er stillet sikkerhet for dem, og gjeldserklæringer av enhver annen art, så vel som all annen inntekt som etter lovgivningen i den Kontraherende Stat som inntekten skriver seg fra er likestilt med inntekt av utlånt kapital.

(5) Bestemmelsene i punktene (2) og (3) får ikke anvendelse hvis den som rettmessig tilkommer rentene og er bosatt i en av de Kontraherende Stater, har et fast driftssted i den annen Kontraherende Stat, og den gjeld som foranlediger rentebetalingen reelt er knyttet til det faste driftssted. I så fall, se punkt (6) (a) i artikkel 5 (fortjeneste ved forretningsvirksomhet).

(6) Når renter erlegges av en person til enhver person som han er fast knyttet til og rentebeløpet overstiger det beløp som ville ha blitt betalt hvis det særlige forhold mellom de to personer ikke hadde foreligget, gjelder bestemmelsene i denne artikkel bare så meget av rentene som ville ha blitt betalt i det tilfelle som er nevnt. I så fall, kan den overskytende del av betalingen skattlegges i hver av de Kontraherende Stater i henhold til dens egen lovgivning, herunder innbefattet bestemmelsene i denne overenskomst når disse kommer til anvendelse.

(7) Renter som betales av en person bosatt i en av de Kontraherende Stater til en annen enn en person bosatt i den annen Kontraherende Stat (og med hensyn til renter som erlegges av et norsk selskap til en annen enn en borger av De Forente Stater), skal være unntatt fra beskatning i den sistnevnte Kontraherende Stat. Dette punkt skal ikke gjelde hvis:

(a) de omhandlede renter anses som inntekt fra kilder i den annen Kontraherende Stat i henhold til artikkel 24 (inntektskilder), punkt (2); eller

(b) mottageren av rentene har et fast driftssted i den annen Kontraherende dring som foranlediger rentebetalingen il.

ARTIKKEL VI

(1) Punkt (1) i artikkel 12 (formuesgevinst) skal endres ved å omnummerere bokstavene (b) og (c) som henholdsvis (d) og (e), og ved å føye inn de følgende nye bokstaver (b) og (c) etter underavsnitt (a):

"(b) gevinst oppebåret av en person bosatt i en av de Kontraherende Stater ved salg, bytte eller annen avhendelse av:

(i) aksjeportefølje i et selskap hvis eiendeler i det vesentlige består av fast eiendom beliggende i den annen Kontraherende Stat; eller

(ii) interesseandel i et interessentskap, trust eller bo hvis eiendeler i det vesentlige består av faste eiendommer i den annen Kontraherende Stat.

Med hensyn til denne bokstav skal uttrykket "fast eiendom" omfatte aksjer i et selskap nevnt i bokstav (b) (i) eller en interesseandel i et interessentskap, trust eller bo nevnt i bokstav (b) (ii).

(c) Gevinsten er oppebåret av en person bosatt i en av de Kontraherende Stater ved salg, bytte eller annen avhendelse av aksjer i et selskap som er hjemmehørende i den annen Kontraherende Stat, men bare hvis:

(i) mottageren av gevinsten i løpet av de siste 12 måneder før slikt salg, bytte eller annen avhendelse, eier mer enn 25 prosent av aksjene i selskapet; og

(ii) mer enn 50 prosent av rimelig markedsverdi av selskapets samlede eiendeler benyttet i forretningsvirksomheten fysisk befinner seg i den annen Kontraherende Stat på den siste dag i hver av de 3 inntektsår som går foran salget, byttet eller annen avhendelse (eller hvis selskapet har eksistert i mindre enn 3 år, på den siste dag i hvert av selskapets forutgående inntektsår)."

(2) Punktene (3) og (4) i artikkel 12 (formuesgevinst) skal utgå og et nytt punkt (3) skal føyes inn etter punkt (2):

"(3) For så vidt angår gevinster nevnt i punkt (1) (a), se artikkel 11 (inntekt av fast eiendom). For så vidt angår gevinster angitt i punkt (1) (d), se punkt (6) (a) i artikkel 5 (fortjeneste ved forretningsvirksomhet)."

(3) Punkt (8) i artikkel 24 (inntektskilder) skal utgå og erstattes med følgende:

"(8) Inntekt ved gevinst som omhandlet i artikkel 12 punkt (1) (formuesgevinst), oppebåret av en person bosatt i en Kontraherende Stat, men som kan skattlegges i den annen Kontraherende Stat, skal anses som inntekt fra kilder innen den annen Kontraherende Stat."

ARTIKKEL VII

(1) Punkt (2) (c) i artikkel 13 (selvstendige personlige tjenester) skal utgå og erstattes med følgende:

"(c) vedkommende fysiske person opptrer til underholdning for almenheten, så som skuespiller, filmskuespiller, kunstner i fjernsyn, musiker eller idrettsutøver, og inntekten skriver seg fra utøvelsen av personlige tjenester ved underholdning for almenheten, forutsatt at han oppholder seg i den sistnevnte Kontraherende Stat i mer enn samlet 90 dager i løpet av

inntektsåret eller hans inntekt overstiger i alt 10 000 amerikanske dollars eller motverdien herav i norske kroner i løpet av inntektsåret."

(2) Følgende nye artikkel 14A (artister og idrettsutøvere) skal føyes inn etter artikkel 14 (uselvstendige personlige tjenester):

"ARTIKKEL 14 A
ARTISTER OG IDRETTSUTØVERE

Når inntekt som skriver seg fra virksomhet utøvet av en artist eller idrettsutøver i egenskap av sådan, ikke tilfaller artisten eller idrettsutøveren, men en annen person, kan inntekten - uansett bestemmelsene i artiklene 5 (fortjeneste ved forretningsvirksomhet), 13 (selvstendige personlige tjenester) og 14 (uselvstendige personlige tjenester), skattlegges i den Kontraherende Stat der artisten eller idrettsutøveren utøver virksomheten. Med hensyn til foregående punktum, skal en artists eller idrettsutøvers inntekt ikke anses å være tilfalt en annen person hvis det blir fastslått at hverken artisten eller idrettsutøveren, eller personer med fast tilknytning til disse, får direkte eller indirekte del i slik persons fortjeneste på noen som helst måte, herunder mottar utsatt betaling, bonus, avgift, dividender, utdelinger fra interessentskap eller andre utdelinger."

ARTIKKEL VIII

Artikkel 19 (sosiale trygdeytelser) skal utgå og erstattes med følgende:

"ARTIKKEL 19
SOSIALE TRYGDEYTELSER

Sosiale trygdeytelser og andre offentlige pensjoner som utredes av en av de Kontraherende Stater til en fysisk person som er bosatt i den annen Kontraherende Stat eller en borger av De Forente Stater skal bare kunne skattlegges i den førstnevnte Kontraherende Stat. Denne artikkel gjelder ikke utbetalinger som er omhandlet i artikkel 17 (offentlig tjeneste)."

ARTIKKEL IX

Punkt (3) i artikkel 22 (alminnelige beskatningsregler) skal endres ved følgende tilføyelse etter første punktum:

"Med hensyn til uttrykket "borger" skal dette omfatte en forhenværende borger hvis bortfall av borgerskap hadde som et av de viktigste formål å unndra seg inntektsskatt. Men dette gjelder bare for et tidsrom av ti år etter bortfall."

ARTIKKEL X

Punkt (2) i artikkel 23 (unngåelse av dobbeltbeskatning) skal endres slik:

(1) Første periode i bokstav (a) skal endres ved å erstatte "med forbehold av bestemmelsene i bokstavene (b) eller (c) i dette punkt" med "med forbehold av bestemmelsene i bokstavene (b), (c) eller (d) i dette punkt".

(2) Underavsnitt (c) skal utgå og erstattes med følgende:

"(c) Når et norsk selskap mottar dividender fra et selskap i De Forente Stater, hvori det norske selskap innehar minst 10 prosent av aksjekapitalen, skal Norge ved beskatningen av det norske selskap innrømme fradrag i den skatt som ellers skulle vært betalt av det norske selskap, for den del av den amerikanske skatt utlignet av det amerikanske selskaps fortjeneste hvorav dividender er utdelt, som svarer til forholdet mellom utdelte dividender og det amerikanske selskaps samlede fortjeneste utover denne skatt, men bare såfremt det norske selskap har oppgitt som inntekt et beløp svarende til slikt fradrag, i det år hvori dividendene er mottatt. Dette fradrag skal imidlertid ikke overstige den del av skatten, beregnet før fradraget gis, som tilsvarer den inntekt som skriver seg fra kilder i De Forente Stater i m er fastsatt i artikkel 24 (inntektskilder)."

(3) Et nytt underavsnitt (d) skal tilføyes som følger:

"(d) Når en person bosatt i Norge oppebærer inntekt som, i overensstemmelse med punkt (1) i artikkel 4 A (virksomheter utenfor kysten), kan skattlegges i De Forente Stater, kan Norge skattlegge samme inntekt, men skal innrømme et fradrag i skatt i Norge av samme inntekt med et beløp svarende til den skatt som er betalt i De Forente Stater. Dette fradrag skal imidlertid ikke overstige den del av skatten, beregnet før fradraget gis, som faller på den inntekt som kan skattlegges i De Forente Stater."

ARTIKKEL XI

(1) Punkt (4) i artikkel 27 (framgangsmåten ved inngåelse av gjensidige avtaler) skal få følgende tillegg:

"Enhver inngått avtale skal gjennomføres uansett tidsfrister i de Kontraherende Staters interne lovgivning."

(2) Følgende nytt punkt (5) skal føyes til artikkel 27 (framgangsmåten ved inngåelse av gjensidige avtaler):

"(5) Når en bestemmelse i denne overenskomst angir et beløp i valuta, kan de kompetente myndigheter bli enige om å oppregulere dette beløp på bakgrunn av økonomisk utvikling."

ARTIKKEL XII

Punkt (3) i artikkel 28 (utveksling av opplysninger) skal utgå og erstattes med følgende:

"(3) Utveksling av opplysninger skal enten gjennomføres uoppfordret eller etter anmodning i hvert enkelt tilfelle. Hvis en Kontraherende Stat anmoder om opplysninger i medhold av denne artikkel, skal den annen Kontraherende Stat innhente slike opplysninger som det anmodes om på samme måte og i samme omfang som om skatten i den førstnevnte stat var en skatt i den annen stat og var pålagt av denne annen stat. På særskilt anmodning fra den kompetente myndighet i en Kontraherende Stat skal den kompetente myndighet i den annen Kontraherende Stat tilveiebringe opplysninger i henhold til denne artikkel gjennom å stille vitner og

autentiske kopier av uredigerte originale dokumenter (inkludert bøker, papir, uttalelser, opptegnelser, regnskaper eller skriftveksling), i samme grad som slike vitnemål og dokumenter kan innhentes etter lov og administrativ praksis i den annen Stat med hensyn til egne skatter."

ARTIKKEL XIII

(1) Denne protokoll skal ratifiseres og ratifikasjonsdokumentene skal utveksles i Washington så snart som mulig.

(2) Denne protokoll skal tre i kraft ved utvekslingen av ratifikasjonsdokumentene og dens bestemmelser skal få virkning:

(a) Med hensyn til godskrivning mot amerikanske skatter i overensstemmelse med artikkel I i denne protokoll, fra og med det sjette inntektsår som går forut for 1. januar i det år da denne protokoll trer i kraft;

(b) med hensyn til skatter tilbakeholdt ved kilden, beløp betalt på eller etter den første dag i den sjette måned som følger etter datoen da denne protokoll trer i kraft;

(c) med hensyn til andre skatter, for inntektsår som begynner 1. januar eller senere i det år som følger etter det år da protokollen trer i kraft.

Utferdiget i Oslo i to eksemplarer på norsk og engelsk, slik at begge tekster har samme gyldighet, den 19. september, 1980.

FOR DE FORENTE STATER:

FOR KONGERIKET NORGE:

JAMAICA

Double Taxation: Taxes on Income

Convention, with exchange of notes, signed at Kingston May 21, 1980;
Transmitted by the President of the United States of America to the Senate August 4, 1980 (S. Ex. O, 96th Cong., 2d Sess.);
Reported favorably by the Senate Committee on Foreign Relations December 9, 1981 (S. Ex. Rept. No. 97–40, 97th Cong., 1st Sess.);
Advice and consent to ratification by the Senate, with a reservation and an understanding, December 16, 1981;
Ratified by the President, subject to said reservation and understanding, December 22, 1981;
Ratified by Jamaica December 29, 1981;
Ratifications exchanged at Kingston December 29, 1981;
Proclaimed by the President January 20, 1982;
Entered into force December 29, 1981.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention between the Government of the United States of America and the Government of Jamaica for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income was signed at Kingston on May 21, 1980, together with a related exchange of notes, and the Protocol Amending the 1980 Convention, together with a related exchange of notes, was signed at Kingston on July 17, 1981, the texts of which are hereto annexed;

The Senate of the United States of America by its resolution of December 16, 1981, two-thirds of the Senators present concurring

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therein, gave its advice and consent to ratification of the Convention, Amending Protocol and related exchanges of notes, subject to the following:

1) reservation that, notwithstanding the provisions of paragraph (5) of Article 13 of the Convention (which relates to the taxation of gains from the alienation of shares of a corporation or of an interest in a partnership, estate, or trust, the property of which consists, directly or indirectly, principally of real property situated in one of the countries), gain derived by a resident of a Contracting State from the alienation or other disposition of an interest in a corporation, or an interest in a partnership, trust, or estate, which has an interest in real property located in the other Contracting State, or the assets of which are considered under the domestic law of that other Contracting State to consist, in whole or in part, of real property, or an interest therein, in that other State, may be taxed by that other State to the extent provided for by its domestic law. In addition, gain derived by a corporation which is a resident of a Contracting State upon the distribution (including a distribution in liquidation or otherwise) of an interest in real property in the other Contracting State (as determined under the domestic law of the other Contracting State) may be taxed by that other Contracting State to the extent provided for by its domestic law.

2) understanding that appropriate Congressional Committees and the General Accounting Office shall be afforded access to the information exchanged under this Convention where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

The Convention, Amending Protocol and related exchanges of notes were ratified, subject to the aforesaid reservation and understanding by the President of the United States of America on December 22, 1981, in pursuance of the advice and consent of the Senate, and was ratified on the part of the Government of Jamaica;

The instruments of ratification of the Convention, Amending Protocol and related exchanges of notes were exchanged at Kingston on December 29, 1981, and accordingly the Convention and Amending Protocol entered into force on December 29, 1981, effective as specified in Article 29 of the Convention;

Now, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim and make public the Convention, Amending Protocol and related exchanges of notes to the end that they be observed and fulfilled with good faith on and after December 29, 1981, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twentieth day of January in the year of our Lord one thousand nine hundred eighty-two and of the Independence of the United States of America the two hundred sixth.

[SEAL]

RONALD REAGAN

By the President:
ALEXANDER M. HAIG JR.
Secretary of State

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAMAICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the United States of America and the Government of Jamaica, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

ARTICLE 1

Personal Scope

1. Except as otherwise provided in this Convention, this Convention shall apply to persons who are residents of one or both of the Contracting States.

2. This Convention shall not restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded -

a) by the laws of either Contracting State; or

b) by any other agreement between the Contracting States.

3. Notwithstanding any provision of this Convention except paragraph 4 of this Article, a Contracting State may tax its residents (as determined under Article 4 (Residence)), and by reason of citizenship may tax its citizens, as if this Convention had not come into effect.[1]

4. The provisions of paragraph 3 shall not affect:

a) the benefits conferred by a Contracting State under paragraphs 1 b) and 4 of Article 19 (Pensions, etc.), Article 24 (Relief from Double Taxation), Article 25 (Non-Discrimination) and Article 26 (Mutual Agreement Procedure); and

b) the benefits conferred by a Contracting State under Articles 20 (Government Service), 21 (Students and Trainees), 22 (Teachers and Researchers) and 28 (Diplomatic Agents and Consular Officers) upon individuals who are neither citizens of, nor have immigrant status in, that State.

ARTICLE 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed by a Contracting State.

2. The existing taxes to which this Convention shall apply are:

a) in the United States: the Federal income taxes imposed by the Internal Revenue Code,[2] but

[1] See art. I of protocol. TIAS 10207; *Post*, p. 2903.
[2] 68A Stat. 3; 26 U.S.C. §§ 1–8023.

excluding the accumulated earnings tax (except as provided in paragraph 5 of Article 10 (Dividends)) and the personal holding company tax.

b) in Jamaica: the income tax, the company profits tax, and the transfer tax.

3. The Convention shall apply also to any identical or substantially similar taxes which are imposed by a Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes. In addition, the Convention shall apply also to a tax imposed by Jamaica in lieu of the income tax or the company profits tax covered by paragraph 2(b). The competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective taxation laws and shall notify each other of any official published material concerning the application of this Convention, including explanations, regulations, rulings, or judicial decisions.

4. For the purpose of Article 25 (Non-Discrimination), this Convention shall also apply to taxes of every kind and description imposed by a Contracting State or a political sub-division or local authority thereof. For the purpose of Article 27 (Exchange of Information and Administrative Assistance), this Convention shall also apply to taxes of every kind imposed by a Contracting State.

ARTICLE 3

General Definitions

1. For the purpose of this Convention, unless the context otherwise requires:

a) the term "person" includes an individual, a partnership, a company, an estate, a trust, and any other body of persons;

b) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

c) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise or undertaking carried on by a resident of a Contracting State and an enterprise or undertaking carried on by a resident of the other Contracting State;

d) the term "international traffic" means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in the other Contracting State;

e) the term "competent authority" means:

(i) in the United States: the Secretary of the Treasury or his delegate; and

(ii) in Jamaica: the Minister responsible for finance or his authorized representative;

f) the term "United States" means the United States of America and when used in a geographical sense includes the States thereof and the District of Columbia, the territorial waters of the United States, and any area outside the States and the District of Columbia which in accordance with international law and the laws of the United States is an area within which the rights of the United States with respect to the natural resources of the seabed and subsoil may be exercised;

g) the term "Jamaica" means the island of Jamaica, the Morant Cays, the Pedro Cays and their Dependencies and when used in a geographical sense includes the territorial waters of Jamaica and any area outside such territorial waters which in accordance with international law and the laws of Jamaica is an area within which the rights of Jamaica with respect to the natural resources of the seabed and subsoil may be exercised;

h) the term "Contracting State" means the United States or Jamaica, as the context requires;

i) the term "national" means:

(i) in relation to the United States -

(a) any individual who is a citizen of the United States;

(b) any company, association or other entity deriving its status as such from the laws of the United States or any political subdivision thereof;

(ii) in relation to Jamaica -

(a) any individual who is a citizen of Jamaica;

(b) any company, association or other entity deriving its status as such from the laws of Jamaica.

2. As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires and subject to the provisions of Article 26 (Mutual Agreement Procedure), have the meaning which it has under the laws of that State relating to the taxes which are the subject of this Convention.

ARTICLE 4

Residence

1. For the purposes of this Convention:

a) the term "resident of Jamaica" means:

(i) any person, other than a company, resident in Jamaica for the purposes of Jamaican tax; but in the case of a partnership, estate, or trust, only to the extent that the income derived by such partnership, estate, or trust is subject to Jamaican tax as the income of a resident either in its hands or in the hands of its partners or beneficiaries; and

(ii) a company whose business is managed and controlled in Jamaica.

b) the term "resident of the United States" means:

(i) any person, other than a company, resident in the United States for the purposes of United States tax; but in the case of a partnership, estate, or trust, only to the extent that the income derived by such partnership, estate, or trust is subject to United States tax as the income of a resident, either in its hands or in the hands of its partners or beneficiaries; and

(ii) a company created or organized under the laws of the United States or a political subdivision thereof.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, the individual's status shall be determined as follows:

a) the individual shall be deemed to be a resident of the State in which he has a permanent home available; if such individual has a permanent home available in both States, or in neither State, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (center of vital interests);

b) if the State in which the individual's center of vital interests cannot be determined, he shall be deemed to be a resident of the State in which he has an habitual abode;

c) if the individual has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

d) if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, such company shall be considered to be outside the scope of this Convention except for purposes of paragraph 2 of Article 10 (Dividends), Article 25 (Non-Discrimination), Article 26 (Mutual Agreement Procedure), Article 27 (Exchange of Information and Administrative Assistance) and Article 29 (Entry Into Force).

4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person.

5. Where under any provision of this Convention income arising in one of the Contracting States is relieved in whole or in part from tax in that Contracting State and, under the law in force in the other Contracting State a person, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in the other Contracting State during the calendar year such income accrues or the next succeeding calendar year.

ARTICLE 5

Permanent Establishment

For the purposes of this Convention, except as otherwise specified in this Article, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) a store or premises used as a sales outlet;

g) a warehouse, in relation to a person providing storage facilities for others;

h) a mine, an oil or gas well, a quarry, or any other place of extraction of natural resources;

i) a building site or construction, assembly, installation, or dredging project, or a drilling rig or ship used for the exploration or development of natural resources within a Contracting State, but only if such site, project or activity continues within that State for a period or periods aggregating more than 183 days in any twelve-month period (including the period of any supervisory activity connected therewith), provided that a permanent establishment shall not exist in any taxable year in which such site, project or activity continues within that State for a period or periods aggregating less than 30 days in that taxable year;

j) the furnishing of services, including consultancy, management and technical, and supervisory services, within a Contracting State by an enterprise through employees or other personnel, but only if (i) activities of that nature continue within that State for a period or periods aggregating more than 90 days in any twelve-month period, provided that a permanent establishment shall not exist in any taxable year

in which such services are rendered in that State for a period or periods aggregating less than 30 days in that taxable year; or (ii) the services are performed within that State for a related enterprise (within the meaning of paragraph 3 of Article 9 (Associated Enterprises));

k) the maintenance of substantial equipment or machinery within a Contracting State but only if such equipment or machinery is maintained within that State for a period of more than 120 consecutive days, provided that a permanent establishment shall not exist in any taxable year in which such equipment or machinery is maintained within that State for a period or periods aggregating less than 30 days in that taxable year.

3. Notwithinstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include any one or more of the following:

a) the use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise other than goods or merchandise held for sale by such enterprise in a store or premises used as a sales outlet;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery, other than goods or merchandise held for sale by such enterprise in a store or premises used as a sales outlet;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. If an enterprise of a Contracting State does not have a permanent establishment in the other Contracting State under paragraphs 1, 2, and 3, but goods or merchandise are either:

a) subjected to processing in that other Contracting State by another person (whether or not purchased in that other Contracting State); or

b) purchased in that other Contracting State (and such goods or merchandise are not subjected to processing outside that other Contracting State)

then such enterprise shall be considered to have a permanent establishment in that other Contracting State to the extent that all or part of such goods or merchandise is sold by or on behalf of such enterprise for use, consumption, or disposition in that other Contracting State.

5. Notwithstanding the provisions of paragraphs 1 and 2, a person (other than an agent of an independent status to whom paragraph 6 applies) acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if:

a) he has and habitually exercises in the first-mentioned State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make that fixed place of business a permanent establishment under the provisions of that paragraph (subject to the provisions of paragraph 4); or

b) he habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise and additional activities conducted in that State on behalf of the enterprise have contributed to the conclusion of the sale of such goods or merchandise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such agent are devoted wholly or almost wholly on behalf of that enterprise, he shall not be considered an agent of independent status within the meaning of this paragraph if the transactions between the agent and the enterprise were not made under arm's length conditions.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

Income From Immovable Property (Real Property)

1. Income derived by a resident of a Contracting State from immovable property (real property), including income from agriculture or forestry, situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

Business Profits

1. The business profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the business profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the business profits which it might be expected to make if it were a distinct and independent enterprise engaged in the same or similar activities under the same or similar conditions.

3. In determining the business profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably allocable to the income of that permanent establishment whether incurred in the State in which

the permanent establishment is situated or elsewhere.

4. No business profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. For the purposes of the preceding paragraphs, the business profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where business profits include items of income which are dealt with separately in other Articles of this Convention, the provisions of those Articles shall, except as otherwise specifically provided therein, not be affected by the provisions of this Article.

7. For the purposes of this Convention "business profits" means income derived from the conduct of any trade or business including the rental of tangible personal (movable) property and the furnishing of the personal services of another person, but not including income from the rental or licensing of cinematograph films or films or tapes used for radio or television broadcasting and not including income derived by an individual from the performance of personal services either as an employee or in an independent capacity.

ARTICLE 8

Shipping and Air Transport

1. Profits of an enterprise of a Contracting State from the operation in international traffic of ships or aircraft shall be taxable only in that State.

2. For purposes of this Article, profits from the operation in international traffic of ships or aircraft include profits derived from the rental of ships or aircraft if operated in international traffic by the lessee or if such rental profits are incidental to other profits described in paragraph 1.

3. Profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers, barges and related equipment for the transport of containers) shall be taxable only in that State to the extent used for the transport of goods or merchandise in international traffic.

4. The provisions of paragraphs 1 and 3 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9

Associated Enterprises

1. Where an enterprise subject to the taxing jurisdiction of a Contracting State and any other enterprise are related and where such related enterprises make arrangements or impose conditions between themselves which are different from those which would be made between independent enterprises, any income, deductions, credits or allowances which would, but for those arrangements or conditions, have been taken into account in computing the income (or loss) of, or the tax payable by, one of such enterprises may be taken into account in computing the amount of the income subject to tax and the taxes payable by such enterprise.

2. Where a redetermination has been made by a Contracting State to the income of an enterprise in accordance with paragraph 1, then the other Contracting State shall, if it agrees with such redetermination and if necessary to prevent double taxation, make a corresponding adjustment to the income of the related enterprise in such other Contracting State. In the event the other Contracting State disagrees with such redetermination, the two Contracting States shall endeavour to reach agreement in accordance with Article 26 (Mutual Agreement Procedure).

3. For the purposes of this Convention an enterprise is related to another enterprise if either enterprise owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

ARTICLE 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which owns, directly or indirectly, 10 per cent of the voting stock of the company paying the dividends;[1]

[1] See art. IV of protocol. TIAS 10207; *Post*, p. 2903.

b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State, of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.

5. The income of a Jamaican company derived from the manufacture in Jamaica of approved products under the tax incentive legislation of Jamaica (as in effect on the date of signature of this Convention or as the competent authorities may agree pursuant to Article 26 (Mutual Agreement Procedure)) shall not be subject to the United States accumulated earnings tax. In addition, a company which is a resident of Jamaica shall be exempt from United States accumulated earnings tax if individuals (other than United States citizens) who are residents of Jamaica control, directly or indirectly, throughout the last half of the taxable year more than 75 per cent of the entire voting power in that company.

6. Where a company is a resident of a Contracting State, the other Contracting State may not impose any tax on the dividends paid by the company, except insofar as

a) such dividends are paid to a resident of that other State; or

b) the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State

even if the dividends paid consist wholly or partly of profits or income arising in that other State.

ARTICLE 11

Interest

1. Interest arising in a Contracting State which is derived and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises and according to the laws of that State, but the tax so charged shall not exceed 12.5 per cent of the gross amount of the interest.

3. Notwithstanding paragraphs 1 and 2, interest derived by

a) a Contracting State or an instrumentality thereof (including the Bank of Jamaica, the Jamaica Development Bank, the Jamaica Mortgage Bank, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, the Federal Reserve Banks of the United States, and such other institutions of either Contracting State as the competent authorities may agree pursuant to Article 26 (Mutual Agreement Procedure)); or

b) a resident of a Contracting State with respect to debt obligations guaranteed or insured by that Contracting State or an instrumentality thereof

shall be exempt from tax by the other Contracting State.

4. The term "interest" as used in this Convention means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums or prizes attaching to such securities, bonds or debentures, as well as income similar to income from money lent.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a

resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12

Royalties

1. Royalties arising in a Contracting State which are derived and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Convention means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films or films or tapes used for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or other like right or property, or for information concerning industrial, commercial or scientific experience. The term "royalties" also includes gains derived from the alienation of any such right or property which are contingent on the productivity, use, or dispostion thereof but does not include payments for the use of tangible personal property.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services),

as the case may be, shall apply.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the person deriving the royalties in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision or a local authority thereof, or a resident of that State. However, where the right or property for which the royalties are paid is used within the United States or Jamaica, as the case may be, the royalties shall be deemed to arise in the State in which the right or property is used.

ARTICLE 13

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 (Income From Immovable Property (Real Property)) and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base regularly available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships, aircraft or containers operated by such enterprise in international traffic shall be taxable only in that State.

4. Jamaica may impose its transfer tax upon the alienation of property in accordance with the Transfer Tax Act as in effect on the date of signature of this Convention.

5, Gains derived by a resident of a Contracting State from the alienation of

a) Stock of a company the value of which is derived

principally from immovable property situated in the other Contracting State; or

b) An interest in a partnership, trust, or estate the value of which is derived principally from immovable property situated in the other Contracting State

may be taxed in the other State. For the purposes of this paragraph, the term "immovable property" includes the stock of a company referred to in sub-paragraph (a) or an interest in a partnership, trust, or estate referred to in sub-paragraph (b).

6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

7. Nothing in this Convention shall affect the right of a Contracting State to levy, according to its domestic law, a tax on gains from the alienation of property derived by an individual who is a resident of the other Contracting State and who was a national of the first-mentioned State at any time during the ten-year period immediately preceding the close of the taxable year in which such property was alienated.

ARTICLE 14

Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity may be taxed by that Contracting State. Except as provided in paragraph 2, such income shall be exempt from tax by the other Contracting State.

2. Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State, if:

a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State;

b) he is present in that other Contracting State for a period or periods aggregating 90 days or more in the taxable year; or

c) the net income derived in the taxable year from residents of that other Contracting State for the performance of such services in the other Contracting State exceeds 5,000 United States dollars or its equivalent in Jamaican dollars.

ARTICLE 15

Dependent Personal Services

1. Subject to the provisions of Articles 16 (Directors' Fees), 19 (Pensions, etc.) and 20 (Government Service), salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) (i) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the taxable year concerned;

(ii) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(iii) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State, unless

b) the net income derived in the taxable year by such resident from such employment exceeds 5,000 United States dollars or its equivalent in Jamaican dollars.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment as a member of the regular complement of a ship or aircraft operated by an enterprise of a Contracting State in international traffic may be taxed only in that Contracting State.

ARTICLE 16

Directors' Fees

Directors' fees and similar payments derived by a resident of a Contracting State for services rendered in the other Contracting State as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State, except where the amount of such fees and similar payments, not including expenses reimbursed to him or borne on his behalf, do not exceed four hundred United States dollars or its equivalent in Jamaican dollars per day for each day such resident is present in that other Contracting State for the purpose of performing such services.

ARTICLE 17

Investment or Holding Companies

If 25 per cent or more of the capital of a company which is a resident of a Contracting State is owned directly or indirectly by individuals who are not residents of that State, and if by reason of special measures the tax imposed by that State on that company with respect to dividends, interest or royalties arising in the other Contracting State is substantially less than the tax generally imposed by the first-mentioned State on corporate business profits, then, notwithstanding the provisions of Articles 10 (Dividends), 11 (Interest), or 12 (Royalties), that other State may tax such dividends, interest or royalties. For the purpose of this Article, the source of dividends, interest or royalties shall be determined in accordance with paragraph 3 a), b), or c) of Article 24 (Relief From Double Taxation).[1]

ARTICLE 18

Artistes and Athletes

1. Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State may be taxed in that other State, except where the amount of the gross receipts derived by such entertainer or athlete, not including expenses reimbursed to him or borne on his behalf, from such activities do not exceed four hundred United States dollars or its equivalent in Jamaican dollars per day, or five thousand United States dollars or its equivalent in Jamaican dollars in the taxable year.

[1] See art. II of protocol. TIAS 10207; *Post*, p. 2903.

2. Where income in respect of activities exercised by an entertainer or an athlete in his capacity as such accrues not to that entertainer or athlete but to another person, that income may, notwithstanding the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services), and 15 (Dependent Personal Services), be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised. For purposes of the preceding sentence, income of an entertainer or athlete shall be deemed not to accrue to another person to the extent that it is established that neither the entertainer or athlete, nor any person related thereto, has the right to participate directly or indirectly in the profits of such other person in any manner, including the receipt of deferred remuneration, bonuses, fees, dividends, partnership distributions or other distributions.

ARTICLE 19

Pensions, etc.

1. Subject to the provisions of paragraph 2 of Article 20 (Government Service)

a) pensions and other similar remuneration beneficially derived by a resident of a Contracting State in consideration of past employment shall be taxable only in that State unless the past employment was performed in the other Contracting State while such person was a resident of that other State, in which case the pension and other similar remuneration may also be taxed in that other State; and

b) social security payments and other public pensions paid by a Contracting State to a resident of the other Contracting State or a citizen of the United States shall be taxable only in the first-mentioned Contracting State.

2. Annuities beneficially derived by a resident of a Contracting State shall be taxable only in that State unless the annuity was purchased in the other Contracting State while such person was a resident of that other State, in which case the annuity may also be taxed in that other State. The term "annuities" as used in this paragraph means a stated sum paid periodically at stated times during life or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

3. Alimony paid to a resident of a Contracting State by a resident of the other Contracting State shall be exempt from tax in the other Contracting State. The term "alimony" as used in this paragraph means periodic payments

made pursuant to a written separation agreement or a decree of divorce, separate maintenance, or compulsory support, which payments are taxable to the recipient under the laws of the State of which he is a resident.

4. Periodic payments for the support of a minor child made pursuant to a written separation agreement or a decree of divorce, separate maintenance, or compulsory support, paid by a resident of a Contracting State to a resident of the other Contracting State, shall be exempt from tax in both Contracting States.

ARTICLE 20

Government Service

1. a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of, and a national of, that State.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State who was a national of that State at the time the services were rendered.

3. The provisions of Articles 14 (Independent Personal Services), 15 (Dependent Personal Services), 16 (Directors' Fees), 18 (Artistes and Athletes) and 19 (Pensions, etc.) shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or local authority thereof.

ARTICLE 21

Students and Trainees

1. Payments which a student, who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present

in the first-mentioned State for the purpose of his full-time education or training, receives for the purpose of his maintenance, education or training shall not be taxed in that State provided that such payments arise outside that State.

2. An individual who is a resident of a Contracting State at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State as an employee of, or under contract with, a resident of the first-mentioned Contracting State, for the primary purpose of

a) acquiring technical, professional, or business experience from a person other than that resident of the first-mentioned Contracting State or a person related to such resident; or

b) studying at a university or other recognized educational institution in that other State,

shall be exempt from tax by that other Contracting State for a period not exceeding 12 consecutive months with respect to his net income from personal services in an amount not in excess of 7,500 United States dollars or its equivalent in Jamaican dollars for any taxable year.

3. Notwithstanding Article 4 (Residence), an individual to whom paragraph 1 or 2 applies and who immediately before visiting or becoming temporarily present in a Contracting State was a resident of the other Contracting State may elect as an alternative to the provisions of those paragraphs to be treated for all tax purposes of the first-mentioned State including this Convention, as a resident of that State. The election shall apply to all periods during the taxable year of the election and subsequent taxable years during which the individual qualifies under paragraph 1 or 2 and may not be revoked except with the consent of the competent authority of that State.

ARTICLE 22

Teachers and Researchers

1. An individual who visits a Contracting State for a period not expected to exceed two years for the purpose of teaching or engaging in research at a university, college or other recognized educational institution in that Contracting State, and who was immediately before that visit a resident of the other Contracting State, shall be exempt from tax by the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that State for such purpose. An individual shall be entitled to the benefits of this paragraph only once.

2. This Article shall apply to income from research only if such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

ARTICLE 23

Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply if the person deriving the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 (Business Profits), Article 14 (Independent Personal Services), or Article 18 (Artistes and Athletes), as the case may be, shall apply.

3. Notwithstanding paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may be taxed in that other State.

ARTICLE 24

Relief from Double Taxation

1. In the case of the United States, double taxation shall be avoided as follows: In accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the general principle hereof), the United States shall allow to a resident or citizen of the United States as a credit against the United States tax on income the appropriate amount of tax paid or accrued to Jamaica; and, in the case of a United States company owning at least 10 per cent of the voting power of a company which is a resident of Jamaica from which it receives dividends in any taxable year, the United States shall allow as a credit against the United States tax on income the appropriate amount of tax paid or accrued to Jamaica by that company with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based upon the amount of tax paid or accrued to Jamaica, but the credit shall not exceed the limitations

(for the purpose of limiting the credit to the United States tax on income from sources outside of the United States) provided by United States law for the taxable year. For purposes of applying the United States credit in relation to tax paid or accrued to Jamaica the taxes referred to in paragraphs 2 b) and 3 of Article 2 (Taxes Covered) shall be considered to be income taxes.

2. In the case of Jamaica, double taxation shall be avoided as follows: In accordance with the provisions and subject to the limitations of the law of Jamaica (as it may be amended from time to time without changing the general principle hereof), Jamaica shall allow to a resident of Jamaica as a credit against Jamaican tax on income the appropriate amount of tax paid or accrued to the United States; and in the case of a Jamaican company owning at least 10 per cent of the voting power of a company which is a resident of the United States from which it receives dividends in any taxable year, Jamaica shall allow as a credit against Jamaican tax on income the appropriate amount of tax paid or accrued to the United States by that company with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based upon the amount of tax paid or accrued to the United States, but the credit shall not exceed the limitations (for the purpose of limiting the credit to the Jamaican tax on income from sources outside of Jamaica) provided by Jamaican law for the taxable year. For purposes of applying the Jamaican credit in relation to tax paid or accrued to the United States the taxes referred to in paragraph 2 a) and 3 of Article 2 (Taxes Covered) shall be considered to be income taxes.

3. For the purposes of the preceding paragraphs of this Article, the source of income or profits shall be determined in accordance with the following rules:

a) dividends described in Article 10 (Dividends) shall be deemed to arise in a Contracting State if paid by a company which is a resident of that State;

b) interest, as defined in paragraph 2 of Article 11 (Interest), shall be deemed to arise in the State specified in paragraph 6 of Article 11;

c) royalties, as defined in paragraph 3 of Article 12 (Royalties), shall be deemed to arise in the State specified in paragraph 6 of Article 12;

d) except for income or profits referred to sub-paragraphs a), b), or c), dividends and interest derived from a company described in paragraph 3 of Article 4 (Residence), and income described in paragraph 3 of Article 23 (Other Income), income or profits derived by a resident of a Contracting State which may be taxed in the other Contracting State (other than solely by reason of citizenship) in accordance with this Convention shall be deemed to arise in that other Contracting State.

ARTICLE 25

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Except where the provisions of paragraph 1 of Article 9 (Associated Enterprises), paragraph 7 of Article 11 (Interest), or paragraph 5 of Article 12 (Royalties) apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, in accordance with the provisions of paragraph 4 of Article 2 (Taxes Covered), apply to taxes of every kind and description imposed by a Contracting State or a political subdivision or local authority thereof.

6. Nothing contained in this Article shall be construed -

a) as obliging either Contracting State to grant to individuals not resident in that State any personal allowances, reliefs or credits for taxation purposes which are by law available only to individuals who are so resident; or

b) as preventing Jamaica from charging a higher rate of income tax under section 48 (5) of the Income Tax Act of Jamaica on a life insurance company which is a resident of the United States than on a regionalized life assurance company.[1]

[1] See art. III of protocol. TIAS 10207; *Post*, p. 2903.

ARTICLE 26

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or national. A resident of a Contracting State who has a permanent establishment or a fixed base in the other Contracting State may present his case to the competent authority of either Contracting State.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding the time limits in the domestic law of the Contracting States, provided that, in the case of Jamaica, the taxpayer or the competent authority of the United States gives notice within the time limits in the domestic law of Jamaica to the competent authority of Jamaica that there may be a claim for tax adjustment.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. In particular the competent authorities of the Contracting States may agree:

a) to the attribution of income, deductions, credits, or allowances of an enterprise of a Contracting State to its permanent establishment situated in the other Contracting State;

b) to the allocation of income, deductions, credits, or allowances between persons;

c) to the characterization of particular items of income;

d) to the application of source rules with respect to particular items of income; and

e) to a meaning of a term.

They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. In cases where this Convention specifies a dollar amount, the competent authorities may agree to a higher dollar amount.

ARTICLE 27

Exchange of Information and Administrative Assistance

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is in accordance with the Convention and, in addition, such information as is necessary for the prevention of fraud or tax evasion in relation to the taxes covered by the Convention. The exchange of information is not restricted by Article 1 (Personal Scope). Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall obtain the information to which the request relates in the same manner and to the same extent as if the tax of the first-mentioned State were the tax of that other State and were being imposed by that other State. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts, or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of such other State with respect to its own taxes.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

4. Each of the Contracting States shall endeavour to collect on behalf of the other Contracting State such amounts as may be necessary to ensure that relief granted by the present Convention from taxation imposed by such other Contracting State does not enure to the benefit of persons not entitled thereto.

5. Paragraph 4 of this Article shall not impose upon either of the Contracting States the obligation to carry out administrative measures which are of a different nature from those used in the collection of its own tax, or which would be contrary to its sovereignty, security, public policy, or domestic law.

6. For the purpose of this Article, this Convention shall apply to taxes of every kind imposed by a Contracting State.

ARTICLE 28

Diplomatic Agents and Consular Officers

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

ARTICLE 29

Entry into Force

1. This Convention shall be subject to ratification in accordance with the applicable procedures of each Contracting State and instruments of ratification shall be exchanged at Washington as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification[1] and its provisions shall have effect:

a) in respect of tax withheld at the source, to amounts paid or credited on or after the first day of the second month next following the date on which the Convention enters into force;

[1] Dec. 29, 1981.

b) in respect of other taxes, to taxable periods beginning on or after the first day of January next following the date on which the Convention enters into force.

3. Upon the coming into effect of this Convention, the extension to Jamaica, effective January 1, 1959, of the Convention of 16th April, 1945,[1] between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, as modified by Supplementary Protocols of 6th June, 1946, 25th May, 1954, and 19th August, 1957,[2] shall terminate. The provisions of the 1945 Convention, as amended, will cease to have effect with respect to the United States and Jamaica from the date on which the corresponding provisions of this Convention shall, for the first time, have effect according to the provisions of paragraph 2 of this Article.

ARTICLE 30

Termination

1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after 5 years from the date on which the Convention enters into force provided that at least 6 months' prior notice of termination has been given through diplomatic channels. In such event, the Convention shall cease to have effect:

a) in respect of tax withheld at the source, to amounts paid or credited on or after the first day of January next following the expiration of the 6 months' period;

b) in respect of other taxes, to taxable periods beginning on or after the first day of January next following the expiration of the 6 months' period.

DONE at Kingston, Jamaica in duplicate this 21st day of May, 1980.

[3]
Ambassador

FOR THE UNITED STATES OF AMERICA

[4]

FOR JAMAICA

[1] TIAS 4141; 9 UST 1459.
[2] TIAS 1546, 3165, 4124; 60 Stat. 1377; 6 UST 37; 9 UST 1329.
[3] Loren B. Lawrence.
[4] Hugh Small.

[EXCHANGE OF NOTES]

No. 141

Excellency:

I have the honor of commenting on the Convention between the Government of the United States of America and the Government of Jamaica for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed today. The following understandings were reached between the two Governments.

(1) In the process of negotiating this agreement, the delegation from Jamaica emphasized the necessity of including in the Convention additional provisions which will create incentives to promote the flow of investment to Jamaica.

The United States delegation is not able to accept such provisions at this time. However, I wish to assure you that my Government realizes the importance your Government attaches to the increase of investments in Jamaica. Should circumstances change, including any changes in the manner in which the United States imposes income tax upon the income of United States investments in Jamaica, our Government would be prepared to reopen

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the discussions in order to reflect in this Convention provisions which would minimize the conflicts between the United States tax system and the incentives proposed by the Government of Jamaica to foreign investors and which are consistent with the income tax policies of the United States, including tax Convention policies, with respect to other developing countries.

(2) In the course of discussions leading to the conclusion of the Convention signed today, the Jamaican delegation expressed its desire that Article 24 (Non-Discrimination) be drafted so as not to prevent Jamaica from imposing special taxes in pursuance of its economic development program, even if these taxes might otherwise violate the provisions of Article 24. The United States delegation explained that it could not agree to such a provision before having the opportunity to examine the specific aspects of such legislation. The United States delegation believes, furthermore, that it would be inappropriate to grant to the competent authorities the power to expand in this way the scope of the Convention by administrative action.

I would like to take this opportunity to assure you, however, that if at some time in the future Jamaica should enact legislation which would contravene the provisions of Article 24 of the Convention, the United States would be prepared to reopen discussions with the

Government of Jamaica to determine whether it would be appropriate to except such legislation from the scope of Article 24.

(3) During discussions involving the Convention, representatives of the Government of Jamaica expressed their concern about whether certain amounts received by the Government of Jamaica from companies extracting and refining bauxite in Jamaica would qualify for the United States foreign tax credit. The Government of Jamaica expressed the belief that such amounts are in satisfaction of liability for the Jamaican company profits tax. The Government of Jamaica also expressed a willingness to consider a revision of its taxation of bauxite income to impose a tax "in lieu of" its company profits tax within the meaning of section 903 of the United States Internal Revenue Code. The Government of Jamaica desired assurance that such an "in lieu of" tax would be covered by the Convention.

The United States delegation discussed with the delegation of the Government of Jamaica the foreign tax credit requirements of sections 901 and 903 of the Internal Revenue Code. The United States delegation agreed that the language now included in paragraph 3 of Article 2 (Taxes Covered) of the Convention covers amounts paid "in lieu of" the company profits tax (or

income tax) of Jamaica, if the Government of Jamaica decides to impose such a tax in the future. It is understood that such an "in lieu of" tax would have to meet the requirements of section 903 of the Internal Revenue Code of 1954 to be covered by the Convention.

Accept, Excellency, the renewed assurances of my highest consideration.

Loren E. Lawrence

The Embassy of the United States of America
Kingston, May 21, 1980

MINISTRY OF FINANCE AND PLANNING
30 NATIONAL HEROES CIRCLE,
P.O. BOX 512,
KINGSTON,
JAMAICA

ANY REPLY OR SUBSEQUENT REFERENCE TO THIS COMMUNICATION SHOULD BE ADDRESSED TO THE FINANCIAL SECRETARY AND THE FOLLOWING REFERENCE QUOTED:—
No. 714/09

TELEPHONE No. 92-28500-15

21st May, 1980.

His Excellency Loren Lawrence,
Ambassador of the United States of America.

Excellency:

I have the honor to acknowledge receipt of your note of May 21, 1980 which reads as follows:

"I have the honor of commenting on the Convention between the Government of the United States of America and the Government of Jamaica for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed today. The following understandings were reached between the two Governments.

(1) In the process of negotiating this agreement, the delegation from Jamaica emphasized the necessity of including in the Convention additional provisions which will create incentives to promote the flow of investment to Jamaica.

The United States delegation is not able to accept such provisions at this time. However, I wish to assure you that my Government realizes the importance your Government attaches to the increase of investments in Jamaica. Should circumstances change, including any changes in the manner in which the United States imposes income tax upon the income of United States investments in Jamaica, our Government would be prepared to reopen the discussions in order to reflect in this Convention provisions which would minimize the conflicts between the United States tax system and the incentives proposed by the Government of Jamaica to foreign investors and which are consistent with the income tax policies of the United States, including tax Convention policies, with respect to other developing countries.

(2) In the course of discussions leading to the conclusion of the Convention signed today, the Jamaican delegation expressed its desire that Article 24 (Non-Discrimination) be drafted so as not to prevent Jamaica from imposing special taxes in pursuance of its economic development program, even if these taxes might otherwise violate the provisions of Article 24. The United States delegation explained that it could not agree to such a provision before having the opportunity to examine the specific aspects of such legislation. The United States delegation believes, furthermore, that it would be inappropriate to grant to the competent authorities the power to expand in this way the scope of the Convention by administrative action.

I would like to take this opportunity to assure you, however, that if at some time in the future Jamaica should enact legislation which would contravene the provisions of Article 24 of the Convention, the United States would be prepared to reopen discussions with the Government of Jamaica to determine whether it would be appropriate to except such legislation from the scope of Article 24.

(3) During discussions involving the Convention, representatives of the Government of Jamaica expressed their concern about whether certain amounts received by the Government of Jamaica from companies extracting and refining bauxite in Jamaica would qualify for the United States foreign tax credit. The Government of Jamaica expressed the belief that such amounts are in satisfaction of liability for the Jamaican company profits tax. The Government of Jamaica also expressed a willingness to consider a revision of its taxation of bauxite income to impose a tax "in lieu of" its company profits tax within the meaning of section 903 of the United States Internal Revenue Code. The Government of Jamaica desired assurance that such an "in lieu of" tax would be covered by the Convention.

The United States delegation discussed with the delegation of the Government of Jamaica the foreign tax credit requirements of sections 901 and 903 of the Internal Revenue Code. The United States delegation agreed that the language now included in paragraph 3 of Article 2 (Taxes Covered) of the Convention covers amounts paid "in lieu of" the company profits tax (or income tax) of Jamaica, if the Government of Jamaica decides to impose such a tax in the future. It is understood that such an "in lieu of" tax would have to meet the requirements of section 903 of the Internal Revenue Code of 1954 to be covered by the Convention.

Accept, Excellency, the renewed assurances of my highest consideration."

I have the honor to confirm that the foregoing understandings are in accord with the view of the Jamaican Government and are approved by it.

Accept, Excellency, the renewed assurances of my highest consideration.

Hugh Small
Minister of Finance & Planning.

JAMAICA

Double Taxation: Taxes on Income

Protocol, with exchange of notes, amending the convention of May 21, 1980.
Signed at Kingston July 17, 1981;
Transmitted by the President of the United States of America to the Senate September 8, 1981 (Treaty Doc. No. 97–17, 97th Cong., 1st Sess.);
Reported favorably by the Senate Committee on Foreign Relations December 9, 1981 (S. Ex. Rept. No. 97–40, 97th Cong., 1st Sess.);
Advice and consent to ratification by the Senate, with a reservation and an understanding to the convention, December 16, 1981;
Ratified by the President, subject to said reservation and understanding to the convention, December 22, 1981;
Ratified by Jamaica December 29, 1981;
Ratifications exchanged at Kingston December 29, 1981;
Proclaimed by the President January 20, 1982;
Entered into force December 29, 1981.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention between the Government of the United States of America and the Government of Jamaica for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income was signed at Kingston on May 21, 1980, together with a related exchange of notes, and the Protocol Amending the 1980 Convention, together with a related exchange of notes, was signed at Kingston on July 17, 1981, the texts of which are hereto annexed;

The Senate of the United States of America by its resolution of December 16, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention, Amending Protocol and related exchanges of notes, subject to the following:

1) reservation that, notwithstanding the provisions of paragraph (5) of Article 13 of the Convention (which relates to the taxation of gains from the alienation of shares of a corporation or of an interest in a partnership, estate, or trust, the property of which consists, directly or indirectly, principally of real property situated in one of the countries), gain derived by a resident of a Contracting State from the alienation or other disposition of an interest in a corporation, or an interest in a partnership, trust, or estate, which has an interest in real property located in the other Contracting State, or the assets of which are considered under the domestic law of that other Contracting State to consist, in whole or in part, of real property, or an interest therein, in that other State, may be taxed by that other State to the extent provided for by its domestic law. In addition, gain derived by a corporation which is a resident of a Contracting State upon the distribution (including a distribution in liquidation or otherwise) of an interest in real property in the other Contracting State (as determined under the domestic law of the other Contracting State) may be taxed by that other Contracting State to the extent provided for by its domestic law.

2) understanding that appropriate Congressional Committees and the General Accounting Office shall be afforded access to the information exchanged under this Convention where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.[1]

The Convention, Amending Protocol and related exchanges of notes were ratified, subject to the aforesaid reservation and understanding by the President of the United States of America on December 22, 1981,

[1] 68A Stat. 3; 26 U.S.C. §§ 1–8023.

in pursuance of the advice and consent of the Senate, and was ratified on the part of the Government of Jamaica;

The instruments of ratification of the Convention, Amending Protocol and related exchanges of notes were exchanged at Kingston on December 29, 1981, and accordingly the Convention and Amending Protocol entered into force on December 29, 1981, effective as specified in Article 29 of the Convention;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim and make public the Convention, Amending Protocol and related exchanges of notes to the end that they be observed and fulfilled with good faith on and after December 29, 1981, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twentieth day of January in the year of our Lord one thousand nine hundred eighty-two
[SEAL] and of the Independence of the United States of America the two hundred sixth.

RONALD REAGAN

By the President:
ALEXANDER M. HAIG, JR.
Secretary of State

PROTOCOL

AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAMAICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT KINGSTON ON MAY 21, 1980.[1]

The Government of the United States of America and the Government of Jamaica,

Desiring to conclude a Protocol to amend the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Kingston on May 21, 1980,

Have agreed as follows:

Article I

Paragraph 3 of Article 1 (Personal Scope) of the Convention shall be deleted and replaced by the following:

"3. Notwithstanding any provisions of this Convention except paragraph 4 of this Article, a Contracting State may tax its residents (as determined under Article 4 (Residence)), and by reason of citizenship may tax its citizens, as if this Convention had not come into effect. In the case of the United States, the term "citizen" shall include a former citizen whose loss of citizenship had as one of its principal purposes the avoidance of income tax, but only for a period of 10 years following such loss."

Article II

Paragraph 2(a) of Article 10 (Dividends) of the Convention shall be deleted and replaced by the following:

"(a) 10 percent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which owns, directly or indirectly, at least 10 percent of the voting stock of the company paying the dividends;"

[1] TIAS 10206; *ante*, p. 2865.

Article III

Article 17 (Investment or Holding Companies) of the Convention shall be deleted and replaced by the following:

"Article 17

Limitations on Benefits

1. A person (other than an individual) which is a resident of a Contracting State shall not be entitled under this Convention to relief from taxation in the other Contracting State unless

(a) more than 75 percent of the beneficial interest in such person is owned, directly or indirectly, by one or more individual residents of the first-mentioned Contracting State; and

(b) the income of such person is not used in substantial part, directly or indirectly, to meet liabilities (including liabilities for interest or royalties) to persons who are residents of a State other than a Contracting State, other than any such persons who are individuals subject to tax in a Contracting State on their worldwide income by reason of citizenship.

A company that has substantial trading in its stock on a recognized exchange in a Contracting State is presumed, solely for purposes of subparagraph (a), to be owned by individual residents of the Contracting State in which the company is resident, as determined under Article 4 (Residence).

2. Paragraph 1 shall not apply if it is determined that the acquisition, ownership or maintenance of such person and the conduct of its operations did not have as a principal purpose obtaining benefits under this Convention.

3. The requirements of paragraph 2 are satisfied, in particular, where a company resident in Jamaica and owned by individual residents of third States derives income with respect to which the company claims United States tax benefits under this Convention, the company does not use such income in the manner described in paragraph 1(b) and:

(a) the company is engaged in business operations in Jamaica and the income with respect to which the company claims United States tax benefits is incidental to or derived in connection with the business operations in Jamaica; or

(b) the individuals owning the company are residents of countries that have income tax conventions in force with the United States and, pursuant to such conventions, the individuals would have been entitled to United States tax benefits the same as, or substantially similar to, the United States tax benefits claimed by the company under this Convention, had the individuals earned the income directly.

The provisions of this paragraph shall apply, mutatis mutandis, to a company resident in the United States and owned by residents of third States that derives income with respect to which Jamaican tax benefits are claimed under this Convention."

Article IV

There shall be added to Article 25 (Non-Discrimination) of the Convention a new paragraph 7, as follows:

"7. Expenses incurred by a citizen or resident of the United States in connection with attendance at a convention, seminar or similar meeting held in Jamaica shall be deductible for the purposes of taxation in the United States to the same extent as if the convention, seminar or similar meeting were held in the United States. This paragraph applies only to ordinary and necessary business expenses for:

(a) lodging, meals and the personal sustenance and comfort of the traveller while at the convention;

(b) registration at the convention and books and other similar materials necessary for attendance at the convention; and

(c) ground and air transportation to and from the convention site, but not in excess of the amount deductible under the laws of the United States with respect to transportation expenses incurred in connection with travel outside the United States."

Article V

1. This Protocol shall be subject to ratification in accordance with the applicable procedures of the United States and Jamaica and instruments of ratification shall be exchanged at Washington as soon as possible.

2. The Protocol shall enter into force upon the exchange of instruments of ratification[1] and shall have effect in accordance with Article 29 (Entry Into Force) of the Convention.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Kingston this 17th day of July 1981.

[2]

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

[3]

FOR THE GOVERNMENT OF JAMAICA

[1] Dec. 29, 1981.
[2] Loren E. Lawrence.
[3] Edward P. G. Seaga.

[EXCHANGE OF NOTES]

Kingston, July 17, 1981

Dear Mr. Minister:

I have the honor of commenting on the Protocol signed today amending the Convention between the Governments of the United States of America and Jamaica for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income, signed on the 21st day of May, 1980 ("the Convention"). The following understandings with respect to the Protocol were reached between the two Governments.

1. During the discussions of Article III of the Protocol, the Jamaican delegation expressed concern about possible implications of new Article 17 (Limitations on Benefits) contained in Article III with respect to investments that might be made in Jamaica by residents of third countries. The United States delegation assured Jamaica that the purpose of new Article 17 is to deny benefits under the Convention where residents of third countries use the Convention with a principal purpose of obtaining U.S. or Jamaican tax benefits that such persons would not otherwise be entitled to, not to impede investments in Jamaica by residents of third countries.

The Rt. Honorable
Edward P. G. Seaga
Minister of Finance & Planning
Government of Jamaica
Kingston, Jamaica

In order to assure that the objectives of new Article 17 are met, the delegations of the United States and Jamaica agreed that the requirements of paragraph 2 of Article 17 are satisfied and that benefits are not denied under Article 17 in particular circumstances. The particular circumstances are where a company resident in Jamaica and owned by individual residents of third countries derives income with respect to which the company claims U.S. tax benefits under the Convention, the company does not use such income in the manner described in paragraph 1 (b) of Article 17 and:

i) the company is engaged in business operations in Jamaica and the income with respect to which the company claims U.S. tax benefits is incidental to or derived in connection with the business operations in Jamaica; or

ii) the individuals owning the company are residents of countries that have income tax conventions in force with the United States and, pursuant to such conventions, the individuals would have been entitled to U.S. tax benefits the same as, or substantially similar to, the U.S. tax benefits claimed by the company under this Convention, had the individuals earned the income directly.

This agreement between the delegations is reflected in paragraph 3 of new Article 17. Paragraph 3 is not intended to suggest that the requirements of paragraph 2 cannot be met in other circumstances, nor to limit the factors that may be

taken into account in determining whether "the acquisition, ownership or maintenance of such person and the conduct of its operations did not have as a principal purpose obtaining benefits under this convention," as provided in paragraph 2.

2. During discussions involving the Protocol, the delegations of the United States and Jamaica noted the past and present cooperation between the United States and Jamaica on legal assistance in criminal matters, including fiscal crimes, and the willingness of the United States and Jamaica to enter into negotiations designed to enhance and formalize that cooperation through modern treaties on extradition and mutual legal assistance on criminal matters.

Accept, Mr. Minister, the renewed assurances of my high consideration.

The Embassy of the United States of America

Kingston, July 17, 1981

MINISTRY OF FINANCE AND PLANNING

JAMAICA

Tel. No.

17th July, 1981.

His Excellency Loren Lawrence,
Ambassador of the United States of America.

Excellency:

I have the honour to acknowledge receipt of your Note of the 17th of July, 1981 which reads as follows:

" I have the honour of commenting on the Protocol signed today amending the Convention between the Governments of the United States of America and Jamaica for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income, signed on the 21st day of May, 1980 ("the Convention"). The following understandings with respect to the Protocol were reached between the two Governments.

1. During the discussions of Article III of the Protocol, the Jamaican delegation expressed concern about possible implications of new Article 17 (Limitations on Benefits) contained in Article III with respect to investments that might be made in Jamaica by residents of third countries. The United States delegation assured Jamaica that the purpose of new Article 17 is to deny benefits under the Convention where residents of third countries use the Convention with a principal purpose of obtaining U.S. or Jamaican tax benefits that such persons would not otherwise be entitled to, not to impede investments in Jamaica by residents of third countries.

In order to assure that the objectives of new Article 17 are met, the delegations of the United States and Jamaica agreed that the requirements of paragraph 2 of Article 17 are satisfied and that benefits are not denied under Article 17 in particular circumstances. The particular circumstances are where a company resident in Jamaica and owned by individual residents of third countries derives income with respect to which the company claims U.S. tax benefits under the Convention, the company does not use such income in the manner described in paragraph 1 (b) of Article 17 and:

(i) the company is engaged in business operations in Jamaica and the income with respect to which the company claims U.S. tax benefits is incidental to or derived in connection with the business operations in Jamaica; or

(ii) the individuals owning the company are residents of countries that have income tax conventions in force with the United States and, pursuant to such conventions, the individuals would have been entitled to U.S. tax benefits the same as, or substantially similar to, the U.S. tax benefits claimed by the company under this Convention, had the individuals esrned the income directly.

This agreement between the delegations is reflected in paragraph 3 of new Article 17. Paragraph 3 is not intended to suggest that the requirements of paragraph 2 cannot be met in other circumstances, nor to limit the factors that may be taken into account in determining whether "the acquisition, ownership or maintenance of such person and the conduct of its operations did not have as a principal purpose obtaining benefits under this Convention," as provided in paragraph 2.

2. During discussions involving the Protocol, the delegations of the United States and Jamaica noted the past and present co-operation between the United States and Jamaica on legal assistance in criminal matters, including fiscal crimes, and the willingness of the United States and Jamaica to enter into negotiations designed to enhance and formalize that co-operation through modern treaties on extradition and mutual legal assistance on criminal matters."

I have the honour to confirm that the foregoing understandings are in accord with the view of the Government of Jamaica and are approved by it.

Accept, Excellency, the renewed assurances of my highest consideration.

Prime Minister &
Minister of Finance & Planning

EGYPT

Atomic Energy: Peaceful Uses of Nuclear Energy

Agreement signed at Washington June 29, 1981;
Entered into force December 29, 1981.
With agreed minute.

AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT CONCERNING PEACEFUL USES OF NUCLEAR ENERGY

The Government of the United States of America and the Government of the Arab Republic of Egypt,

Mindful that both the United States and the Arab Republic of Egypt are parties to the Treaty on the Non-Proliferation of Nuclear Weapons [1] ("NPT");

Affirming their support of the objectives of the International Atomic Energy Agency ("IAEA") and the NPT;

Considering their desire to pursue a cooperative program in the peaceful use of nuclear energy, including the design, construction, and operation of power-producing reactors and research reactors, and the exchange of information relating to the development of other peaceful uses of nuclear energy;

Considering the plans of the Government of the Arab Republic of Egypt to undertake the installation of nuclear power plants as part of its program of introducing and expanding electricity generation by nuclear power;

Reaffirming their desire to enter into this agreement to cooperate with each other to attain the above objectives; and

Mindful that peaceful nuclear activities must be undertaken with a view to protecting the international environment from radioactive, chemical and thermal contamination;

Have agreed as follows:

[1] Done July 1, 1968. TIAS 6839; 21 UST 483.

Article 1
Scope of Cooperation

1. The United States and the Arab Republic of Egypt shall cooperate in the use of nuclear energy for peaceful purposes in accordance with the provisions of this agreement.

2. Transfers of information, material, equipment and components under this agreement may be undertaken directly between the parties or through authorized persons under their jurisdiction. Such transfers shall be subject to this agreement and, if necessary, to such additional terms and conditions as may be agreed by the parties.

Article 2
Definitions

For the purposes of this agreement:

(a) "by-product material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) "component" means a component part of equipment or other item, so designated by agreement of the parties;

(c) "equipment" means any production or utilization facility (including uranium enrichment and nuclear fuel

reprocessing facilities), or any facility for the production of heavy water or the fabrication of nuclear fuel containing plutonium, or any other item so designated by agreement of the parties;

(d) "high enriched uranium" means uranium enriched to twenty percent or greater in the isotope 235;

(e) "low enriched uranium" means uranium enriched to less than twenty percent in the isotope 235;

(f) "major critical component" means any part or group of parts essential to the operation of a sensitive nuclear facility;

(g) "material" means source material, special nuclear material or by-product material, radioisotopes other than by-product material, moderator material, or any other such substance so designated by agreement of the parties;

(h) "moderator material" means heavy water, or graphite or beryllium of a purity suitable for use in a reactor to slow down high velocity neutrons and increase the likelihood of further fission, or any other such material so designated by agreement of the parties;

(i) "parties" means the Government of the United States of America and the Government of the Arab Republic of Egypt;

(j) "peaceful purposes" include the use of information, material, equipment and components in such fields as research, power generation, medicine, agriculture and industry but do not

include use in, research on or development of any nuclear explosive device, or any military purpose;

(k) "person" means any individual or any entity subject to the jurisdiction of either party but does not include the parties to this agreement;

(l) "production facility" means any nuclear reactor designed or used primarily for the formation of plutonium or uranium 233, any facility designed or used for the separation of the isotopes of uranium or plutonium, any facility designed or used for the processing of irradiated materials containing special nuclear material for the separation or production of special nuclear material except where the parties agree that the quantity of special nuclear material the facility is capable of separating or producing lacks significance for nuclear explosive purposes, or any other item so designated by agreement of the parties;

(m) "reactor" means any apparatus, other than a nuclear weapon or other nuclear explosive device, in which a self-sustaining fission chain reaction is maintained by utilizing uranium, plutonium or thorium, or any combination thereof;

(n) "restricted data" means all data concerning (i) design, manufacture, or utilization of nuclear weapons, (ii) the production of special nuclear material, or (iii) the use of special nuclear material in the production of energy, but shall

not include data declassified or removed from the category of restricted data by the United States;

(o) "sensitive nuclear facility" means any facility designed or used primarily for uranium enrichment, reprocessing of nuclear fuel, heavy water production, or fabrication of nuclear fuel containing plutonium;

(p) "sensitive nuclear technology" means any information (including information incorporated in equipment or an important component) which is not in the public domain and which is important to the design, construction, fabrication, operation or maintenance of any sensitive nuclear facility, or such other information designated by agreement of the parties;

(q) "source material" means (i) uranium, thorium, or any other material so designated by agreement of the parties, or (ii) ores containing one or more of the foregoing materials, in such concentration as the parties may agree from time to time;

(r) "special nuclear material" means (i) plutonium, uranium 233, or uranium enriched in the isotope 235, or (ii) any other material so designated by agreement of the parties; and

(s) "utilization facility" means any reactor other than one designed or used primarily for the formation of plutonium or uranium 233.

Article 3
Transfer of Information

1. Information respecting the use of nuclear energy for peaceful purposes may be transferred, including information relating to such fields as:

(a) development, design, construction, operation, maintenance and use of research, materials testing, experimental, demonstration power and power reactors;

(b) application of nuclear power to the desalination of water;

(c) uranium ore refining and conversion and fabrication of light water power reactor fuel;

(d) nuclear instrumentation;

(e) exploration for and development of uranium resources;

(f) the use of material in physical and biological research, medicine, agriculture and industry;

(g) fuel cycle studies of ways to meet future worldwide civil nuclear needs, including multilateral approaches to guaranteeing nuclear fuel supply and appropriate techniques for management of nuclear wastes;

(h) safeguards and physical protection of materials and equipment;

(i) health, safety and environmental considerations related to the foregoing; and

(j) assessing the role nuclear power may play in national energy plans.

The parties shall take every precaution to protect any such information which comes to their knowledge and which, at the time of transfer or receipt, is designated by the supplier party to be proprietary or confidential.

2. This agreement does not require the transfer of any information which the parties are not permitted to transfer.

3. Restricted data shall not be transferred under this agreement.

4. Sensitive nuclear technology may be transferred if provided for by an amendment to this agreement or by a separate agreement.

Article 4
Transfer of Material, Equipment and Components

1. Material, equipment and components may be transferred for applications consistent with this agreement. Special nuclear material other than low enriched uranium and material covered by paragraph 4, sensitive nuclear facilities and major critical components for use in sensitive nuclear facilities may be transferred to the Arab Republic of Egypt if provided for by an amendment to this agreement or by a separate agreement.

2. Low enriched uranium may be transferred for use as fuel in reactors and in reactor experiments, for conversion or fabrication, or for such other purposes as may be agreed by the parties.

3. The quantity of special nuclear material transferred to the Arab Republic of Egypt under this agreement shall not at any time be in excess of the quantity the parties agree is necessary for any of the following purposes: the loading of reactors or use in reactor experiments, the efficient and continuous operation of such reactors or conduct of such reactor experiments, and the accomplishment of other purposes as may be agreed by the parties.

4. Special nuclear material may be transferred (a) in small quantities for use as samples, standards, detectors, targets, and such other purposes as may be agreed by the parties, or (b) which the parties agree has no significance for nuclear explosive purposes and has been consumed, diluted or converted in such a way that the special nuclear material has become practicably irrecoverable.

5. The United States shall take such actions as may be appropriate to ensure a reliable supply of nuclear fuel to the Arab Republic of Egypt, including the export of nuclear material on a timely basis and the availability of the capacity to carry out this undertaking during the period of this agreement.

Article 5
Storage and Retransfers

1. Material transferred pursuant to this agreement and material used in or produced through the use of any material or equipment transferred pursuant to this agreement may be stored by either party, except that each party guarantees that no such special nuclear material (except for unirradiated low enriched uranium), over which it has jurisdiction, shall be stored in any facility that has not been agreed to in advance by the parties. In the selection of a storage facility, due consideration shall be given to non-proliferation aspects as well as to the economics of the storage and its implications on the cost of energy.

2. Material, equipment or components transferred pursuant to this agreement and any special nuclear material produced through the use of any such material or equipment may be transferred by the recipient party, except that such party guarantees that any such material, equipment, components or special nuclear material, over which it has jurisdiction, shall not be transferred to unauthorized persons or, unless the parties agree, beyond its territorial jurisdiction.

Article 6
Reprocessing and Enrichment

1. Each party guarantees that material transferred to and under its jurisdiction pursuant to this agreement and material used in or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this agreement shall not be reprocessed unless the parties agree. If reprocessing is agreed upon by the parties, it shall be carried out only in facilities acceptable to both parties.

2. Each party guarantees that any special nuclear material (except for unirradiated low enriched uranium) transferred to and under its jurisdiction pursuant to this agreement, or used in or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this agreement, shall not be altered in form or content, except by irradiation or further irradiation, unless the parties agree.

3. Each party guarantees that uranium transferred to and under its jurisdiction pursuant to this agreement, and uranium used in any equipment so transferred and under its jurisdiction, shall not be enriched after transfer unless the parties agree.

Article 7
Physical Protection

1. Each party guarantees that adequate physical protection shall be maintained with respect to any material and equipment transferred to and under its jurisdiction pursuant to this agreement and with respect to any special nuclear material used in or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this agreement.

2. The parties agree to the levels for the application of physical protection set forth in the Annex, which levels may be modified by mutual consent of the parties. The parties shall maintain adequate physical protection measures in accordance with such levels. These measures shall as a minimum provide protection comparable to that set forth in IAEA document INFCIRC/225/Revision 1 concerning the physical protection of nuclear material, or in any revision of that document agreed to by the parties.

3. The adequacy of physical protection measures maintained pursuant to this article shall be reviewed by the parties periodically and whenever either party is of the view that revised measures may be required to maintain adequate physical protection.

4. Each party shall identify those agencies or authorities having responsibility for ensuring that levels of

physical protection are adequately met and having responsibility for coordinating response and recovery operations in the event of unauthorized use or handling of material subject to this article. Each party shall also designate points of contact within its national authorities to cooperate on matters of out-of-country transportation and other matters of mutual concern.

5. The provisions of this article shall be implemented in such a manner as to avoid hampering, delay or undue interference in the parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 8
No Explosive or Military Application

Each party guarantees that no material, equipment or components transferred to and under its jurisdiction pursuant to this agreement and no material used in or produced through the use of any such material, equipment or components so transferred and under its jurisdiction shall be used for any nuclear explosive device, for research on or development of any nuclear explosive device, or for any military purpose.

Article 9
Safeguards

1. Cooperation under this agreement shall require the application of IAEA safeguards with respect to all nuclear activities within the territory of the Arab Republic of Egypt, under its jurisdiction or carried out under its control anywhere. The conclusion and implementation of a safeguards agreement with the IAEA in accordance with article III (1) and (4) of the NPT shall be considered as fulfilling this requirement.

2. Material transferred to the Arab Republic of Egypt pursuant to this agreement and any source or special nuclear material used in or produced through the use of any material, equipment or components so transferred shall be subject to safeguards in accordance with the agreement between the Arab Republic of Egypt and the IAEA for the application of safeguards in connection with the NPT.

3. If either party knows of circumstances which demonstrate that the IAEA for any reason is unable to apply safeguards in accordance with the agreement referred to in paragraph 2, it shall inform the other party and, in order to ensure effective continuity of safeguards, the parties shall immediately enter into arrangements which conform with IAEA safeguards principles and procedures and with the coverage required by that paragraph and which provide assurance

equivalent to that intended to be secured by the system they replace.

4. Each party guarantees it shall take such measures as are necessary to maintain and facilitate the application of safeguards provided for under this article.

5. Each party shall establish and maintain a system of accounting for and control of all material transferred pursuant to this agreement and any material used in or produced through the use of any material, equipment or components so transferred, the procedures of which shall be comparable to those set forth in IAEA document INFCIRC/153 (corrected), or in any revision of that document agreed to by the parties.

6. The provisions of this article shall be implemented in such a manner as to avoid hampering, delay or undue interference in the parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 10
Multiple Supplier Controls

In certain circumstances, one party may have a separate peaceful nuclear cooperation agreement with a third nation or group of nations which provides to that third nation or group of nations rights equivalent to any or all of the rights set forth under articles 5, 6 and 7 with respect to material, equipment or components, subject to such rights under this

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agreement. In such circumstances, in order to simplify implementation of these articles, the parties may, upon the request of either of them, agree that implementation of the other party's rights will be accomplished by the third nation or group of nations.

Article 11
Cessation of Cooperation

1. If either party at any time following entry into force of this agreement

(a) materially violates the provisions of articles 5, 6, 7, 8 or 9,

(b) terminates, abrogates or materially violates a safeguards agreement with the IAEA,

the other party shall have the rights to cease further cooperation under this agreement and to require the return of any material, equipment or components transferred under this agreement and any special nuclear material produced through their use.

2. If the Arab Republic of Egypt at any time following entry into force of this agreement detonates a nuclear explosive device, the United States shall have the same rights as specified in paragraph 1.

3. If either party exercises its rights under this article

to require the return of any material, equipment or components, it shall, after removal from the territory of the other party, reimburse the other party for the fair market value of such material, equipment or components. In the event this right is exercised, the parties shall make such other appropriate arrangements as may be required which shall not be subject to any further agreement between the parties as otherwise contemplated under articles 5 and 6.

Article 12
Consultations, Review, Confidentiality and Environmental Protection

1. The parties shall consult at the request of either party regarding the implementation of this agreement and the development of further cooperation in the field of peaceful uses of nuclear energy.

2. This agreement shall be reviewed at any time at the request of either party to take into account regional and international non-proliferation developments, international technological developments and institutional arrangements, the economic and energy needs of the Arab Republic of Egypt, or such other circumstances as may be warranted. The terms of this agreement may be amended as agreed between the parties and in accordance with their applicable requirements.

3. The parties shall take every precaution to protect any information which comes to their knowledge in the implementation of this agreement and which, at the time of transfer or receipt,

is designated by the supplier party to be proprietary or confidential.

4. The parties shall consult and, as may be agreed by the parties, cooperate in matters relating to environmental implications of peaceful nuclear energy with the objective of protecting the environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities and in related matters of health and safety.

Article 13
Settlement of Disputes

The parties shall seek to resolve any dispute concerning the interpretation or implementation of this agreement by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, or other peaceful means of their own choice.

Article 14
Entry into Force and Duration

1. This agreement shall enter into force on the date on which the parties exchange diplomatic notes informing each other that they have complied with all applicable requirements for its entry into force. [1] This agreement shall remain in force for a period of forty (40) years and may be reviewed from time to time or extended for such additional periods as may be agreed between the parties in accordance with their applicable requirements.

[1] Dec. 29, 1981.

2. Notwithstanding the suspension, termination or expiration of this agreement or any cooperation hereunder for any reason, articles 5, 6, 7, 8, 9 and 11 shall continue in effect so long as any material, equipment or components subject to these articles remain in the territory of the party concerned or under its jurisdiction or control anywhere, or until such time as the parties agree that such material, equipment or components are no longer useable for any nuclear activity relevant from the point of view of safeguards.

Article 15
Registration

This agreement shall be registered in accordance with article 102 of the Charter of the United Nations.[1]

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this agreement.

DONE at Washington this 29th day of June 1981, in duplicate, in the English and Arabic languages, both equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

[2]

FOR THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT:

Maher Abaza [3]

[1] TS 993; 59 Stat. 1053.
[2] A. M. Haig, Jr.
[3] Maher Abaza.

ANNEX

Pursuant to paragraph 2 of article 7, the agreed levels of physical protection to be ensured by the competent national authorities in the use, storage and transportation of the materials listed in the attached table shall as a minimum include protection characteristics as follows.

Category III

Use and storage within an area to which access is controlled.

Transportation under special precautions including prior arrangements among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient States, respectively, in case of international transport specifying time, place and procedures for transferring transport responsibility.

Category II

Use and storage within a protected area to which access is controlled, i.e., an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control, or any area with an equivalent level of physical protection.

Transportation under special precautions including prior arrangements among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and

regulation of supplier and recipient States, respectively, in case of international transport, specifying time, place and procedures for transferring transport responsibility.

Category I

Material in this category shall be protected with highly reliable systems against unauthorised use as follows.

Use and storage within a highly protected area, i.e., a protected area as defined for category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their oojective the oetection and prevention of any assault, unauthorized access or unauthorized removal of material.

Transportation unoer special precautions as identified above for transportation of categories II and III materials and, in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces.

TABLE: CATEGORIZATION OF NUCLEAR MATERIAL

Material	Form	Category I	Category II	Category III
1. Plutonium[a]	Unirradiated[b]	2 kg or more	Less than 2 kg but more than 500 g	500 g or less[c]
2. Uranium-235	Unirradiated[b]			
	- ursnium enriched to 20% ^{235}U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less[c]
	- uranium enriched to 10% ^{235}U but less than 20%		10 kg or more	Less than 10 kg[c]
	- uranium enriched above natural, but less than 10% ^{235}U[d]			10 kg or more
3. Uranium-233	Unirradiated[b]	2 kg or more	Less than 2 kg but more than 500 g	500 g or less[c]
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10% fissile content)[e], [f]	

a/ All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.

b/ Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.

c/ Less than a radiologically significant quantity should be exempted.

d/ Natural uranium, depleted uranium and thorium and quantities of uranium enriched to less than 10% not falling in Category III should be protected in accordance with prudent management practice.

e/ Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.

f/ Other fuel which by virtue of its original fissile material content is classified as Category I or II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

[Footnotes in the original.]

AGREED MINUTE

During the negotiation of the proposed Agreement for Cooperation between the Government of the United States of America and the Government of the Arab Republic of Egypt Concerning Peaceful Uses of Nuclear Energy ("agreement") signed today, the following understandings, which shall be an integral part of the agreement, were reached.

The parties note that the agreement will permit the transfer from the United States to the Arab Republic of Egypt of technology and equipment for nuclear electric power generation, including at the outset the transfer of technology and equipment for nuclear electric generating capacity of about 2000 megawatts electric and enriched uranium necessary to support that capacity.

The parties intend to cooperate under the agreement under terms that will assure that neither party is placed at an economic disadvantage and that will not adversely affect the scope of cooperation. They also recognize their respective rights to cooperate with other countries or international organizations in a manner that is suportive of the objectives of the NPT.

Coverage of Agreement

The provisions in the agreement shall apply according to their terms when material, equipment, components or information

is transferred from the territory of one party to the territory of the other party for peaceful purposes, whether directly or through a third country, after confirmation by the appropriate government authority of both parties that such material, equipment, components or information will be subject to the agreement.

The United States and Egypt shall cooperate in the use of nuclear energy for peaceful purposes in accordance with the provisions of this agreement and their respective applicable treaties, national laws, regulations and license requirements.

The parties shall consult periodically on ways in which their mutual non-proliferation and nuclear energy objectives can best be served. Each party shall endeavor to avoid taking any actions that affect the basis and terms of cooperation under the agreement. If either party intends to undertake any such action, it shall consult with the other party in advance, with a view, inter alia, to ascertain whether any amendment to this agreement is required in accordance with the provisions of article 12 of this agreement.

The parties note that the term "source material" shall not be interpreted as applying to ore except as provided for in paragraph (q) of article 2.

The disposition of any special nuclear material which is used in or produced through the use of any material or equipment transferred pursuant to the agreement shall require

agreement of the parties as provided for in articles 5 and 6. Notwithstanding articles 5 and 6, in the event either party considers that exceptional circumstances of concern from a non-proliferation standpoint so require, either party may require that the disposition of any such special nuclear material be in a third country agreed to by the parties or, if the United States is prepared to accept such special nuclear material, in the United States. In this event, the parties shall make appropriate implementing arrangements, including, if such disposition is in the United States, appropriate compensation by the United States.

With reference to article 12 the parties recognize that the Government of Egypt has no near-term plans to engage in the introduction of a fast breeder reactor program or to proceed with the recycling of plutonium in thermal reactors. However, it is the intention of the parties to monitor the future international developments in the field of advanced reactor technologies to ascertain whether any such advances are of economic benefit to the Egyptian nuclear power program.

If during the term of this agreement such technological developments show economic benefit to the nuclear power program of the Arab Republic of Egypt through the use of such reactor fuel cycles compared to other alternatives, the agreement may be reviewed and amended as provided for in paragraph 2 of article 12 to permit the transfer of such fuels to the Arab

Republic of Egypt provided the parties agree that such use will fully meet their non-proliferation concerns.

The Government of the United States confirms that nothing in the agreement would preclude the Government of the Arab Republic of Egypt from receiving any potential benefits under article V of the Treaty on the Non-Proliferation of Nuclear Weapons in accordance with the obligations and objectives of that treaty and other applicable international agreements.

Selection of Facilities

Articles 5 and 6 call for mutual agreement on the selection of facilities in which specified activities are to be performed. Any reprocessing of irradiated source or special nuclear material derived from the equipment or material provided pursuant to the agreement, and any storage or fabrication of the special nuclear material recovered as a result of such reprocessing (other than source material and uranium enriched to less than 20 percent in the isotope 235) will take place in facilities outside the Arab Republic of Egypt, with the disposition of any resulting plutonium to be subject to mutual agreement of the parties. In implementing its rights under these articles to consent to certain activities and to agree upon the selection of facilities, whether in the United States or elsewhere, the Government of the United States will be guided by non-proliferation and

safeguards considerations as well as technological and economic developments. The United States will also be guided by its responsibility not unreasonably to withhold its agreement to these activities when its relevant statutory requirements have been met and will not seek to gain any commercial advantages.

Physical Protection

1. Each country attaches importance to applying adequate physical protection measures to nuclear material, equipment and facilities to protect them against sabotage, diversion or theft. The parties note that the matter of assuring adequate protection of civilian nuclear facilities and related nuclear materials is of great importance to the successful growth of the entire nuclear industry and that the Government of the Arab Republic of Egypt has an important responsibility under the terms of the agreement to assure that the material and equipment subject to the agreement are appropriately protected.

The Government of the United States will assist the Government of the Arab Republic of Egypt in establishing mutually agreed protection arrangements to be applied by the Government of the Arab Republic of Egypt with a view to fulfilling the requirements of article 7. These arrangements would take into account the parties' respective experience and domestic regulations, as well as the guidelines that have been issued by the IAEA. Such agreed upon levels and measures will

form the basis for the fulfillment of the obligations concerning physical protection in the agreement. The United States is prepared to cooperate, through such means as personnel training and authorizing the procurement of needed equipment, in assisting the Arab Republic of Egypt to meet these objectives.

2. With reference to paragraphs 1 and 2 of article 7, while most facilities in the United States provide physical protection comparable to that specified for materials classified as category II and III in the table attached to the Annex, the United States has not completed the necessary rulemaking proceoures with respect to physical protection for these materials. Pending completion of the rulemaking procedures, if any proposed recipient of category II or III material transferred pursuant to the agreement does not provide physical protection as a minimum comparable to that set forth in INFCIRC/225/Revision 1, the United States shall so inform the Arab Republic of Egypt prior to shipment of such material and seek interim arrangements satisfactory to both parties.

Safeguards

If either party knows of circumstances referred to in paragraph 3 of article 9, in conformity with IAEA safeguards principles and procedures, safeguards with the coverage required by paragraph 2 of article 9 and having the following

characteristics shall immediately be applicable and included in the arrangements pursuant to paragraph 3 of article 9:

(a) the review in a timely fashion of the design of any equipment transferred pursuant to the agreement, or of any facility which is to use, fabricate, process or store any material so transferred or any special nuclear material used in or produced through the use of such material or equipment;

(b) the maintenance and production of records and of relevant reports for the purpose of assisting in ensuring accountability for material transferred pursuant to the agreement and any source or special nuclear material used in or produced through the use of material, equipment or components so transferred; and

(c) the designation of personnel acceptable to the Arab Republic of Egypt who shall have access to all places and data necessary to account for the material referred to in paragraph (b), to inspect any equipment or facility referred to in paragraph (a), and to install any safeguarding devices and make such independent measurements as may be deemed necessary to account for such material. The Arab Republic of Egypt shall not unreasonably withhold its acceptance of personnel designated by the safeguarding party under this paragraph. Such personnel shall, if the Arab

Republic of Egypt or the safeguarding party so requests, be accompanied by personnel of the Arab Republic of Egypt.

These safeguards shall be applied (i) by the IAEA under arrangements between the IAEA and the Arab Republic of Egypt so long as such arrangements are acceptable to the parties, (ii) by a nation or group of nations agreed to by the parties under arrangements between the nation or group of nations and the Arab Republic of Egypt so long as such arrangements are acceptable to the parties, or (iii) by the United States.

The simultaneous application of safeguards by the IAEA and by another safeguarding party is not anticipated. If such an exceptional situation should occur, the parties will consult with a view to minimizing the duration of any simultaneous application of safeguards.

Upon the request of the United States, the Arab Republic of Egypt will report or permit the IAEA to report to the United States on the status of all inventories of any material subject to paragraph 2 of article 9, and authorize the IAEA to make available to the Government of the United States requested information on the implementation of the applicable safeguards agreement with the IAEA within the scope of United States-Egyptian cooperation under the agreement. With reference to paragraph 3 of article 12, the Government of the United States confirms that information provided to it in confidence by

the Government of the Arab Republic of Egypt or the IAEA shall be appropriately protected by the Government of the United States.

The United States undertakes to assist the Arab Republic of Egypt in establishing an efficient national safeguards system including, among other things, material accounting and control.

Due to the serious consequences that may result from the potential implementation of article 11(1), before termination of cooperation the parties will immediately consult to review the situation, including its non-proliferation implications, and ascertain what measures, if any, may be taken to rectify it. The parties recognize that article XII C of the IAEA Statute [1] would be applicable in certain situations described in article 11 of the agreement.

Equal Terms and Conditions for Cooperation

The Government of the United States confirms that fields of cooperation, terms and conditions accorded by the United States to the Arab Republic of Egypt for cooperation in the peaceful uses of nuclear energy shall be no less favorable in scope and effect than those which may be accorded by the United States to any other non-nuclear weapon state in the Middle East in a peaceful nuclear cooperation agreement. In this connection it is understood that the safeguards required by this agreement

[1] TIAS 3873; 8 UST 1093.

shall be no more restrictive than those which may be required in any peaceful nuclear cooperation agreement between the United States and any other state in the region. By entering into this agreement the United States confirms its recognition of the importance of the Arab Republic of Egypt's adherence to the NPT, and its longstanding support of international non-proliferation measures, including establishment of a nuclear weapon free zone in the Middle East. If any situation arises which could increase the risk of proliferation of nuclear weapons, the United States and the Arab Republic of Egypt, at the request of either, shall enter into consultations with respect thereto with a view to maintaining the objectives of the NPT.

هذا الموقف ، ويدرك الطرفان ان المادة ١٢ جـ من النظام الأساسى للوكالة الدولية للطاقة الذرية يمكن تطبيقها فى بعض الحالات الواردة فى المادة ١١ من الاتفاق .

الاحكام والظروف المتساوية للتعاون

تؤكد حكومة الولايات المتحدة أن ميادين التعاون والاحكام والظروف التى هيأتها الولايات المتحدة لجمهورية مصر العربية فى الاستخدامات السلمية للطاقة النووية لن تكون أقل افضلية من حيث النطاق والاثار عن تلك التى توفرها الولايات المتحدة لأى دولة غير حائزة للاسلحة النووية فى الشرق الاوسط وذلك فى اتفاق للتعاون النووى السلمى . وفى هذا الخصوص فانه من المفهوم ان الضمانات التى يتطلبها الاتفاق لن تكون اكثر تقييدا عن تلك التى قد يتطلبها أى اتفاق للتعاون النووى السلمى مع أى دولة أخرى فى المنطقة . وبالدخول فى هذا الاتفاق فان الولايات المتحدة تؤكد ادراكها لاهمية انضمام جمهورية مصر العربية لمعاهدة عدم انتشار الاسلحة النووية وتأييدها الدائب للتدابير الدولية لعدم الانتشار بما فى ذلك انشاء منطقة خالية من الاسلحة النووية فى الشرق الأوسط . واذا ما نشأ موقف يمكن أن يؤدى الى ازدياد اخطار انتشار الاسلحة النووية ، فان جمهورية مصر العربية والولايات المتحدة - بناء على طلب احداهما - سيتشاوران بالنسبة لهذا الموقف من أجل الحفاظ على اهداف معاهدة عدم انتشار الاسلحة النووية .

ذلك .

يكون تطبيق هذه الضمانات : (١) بواسطة الوكالة الدولية للطاقة الذرية وفقا لترتيبات بين الوكالة الدولية للطاقة الذرية وجمهورية مصر العربية طالما أن هذه الترتيبات مقبولة للطرفين ، أو (٢) بواسطة دولة أو مجموعة من الدول يتم الاتفاق عليها من الطرفين فى ظل ترتيبات بين هذه الدولة أو المجموعة من الدول وبين جمهورية مصر العربية طالما أن هذه الترتيبات مقبولة للطرفين ، أو (٣) بواسطة الولايات المتحدة .

ومن غير المتوقع التطبيق المزدوج للضمانات بواسطة الوكالة الدولية للطاقة الذرية وطرف آخر . واذا نشأ مثل هذا الموقف الاستثنائى ، فسيتشاور الطرفان بهدف تقليل مدة التطبيق المزدوج للضمانات .

فى حالة طلب الولايات المتحدة ، ستقدم جمهورية مصر العربية تقريرا أو تسمح للوكالة الدولية للطاقة الذرية بتقديم تقرير للولايات المتحدة عن حالة الوضع القائم للموجودات لأية مادة خاضعة للفقره ٢ من المادة ٩ وأن تصرح للوكالة الدولية للطاقة الذرية لتمكين حكومة الولايات المتحدة من الحصول على ما طلبته من معلومات بشأن تطبيق الاتفاقية السارية للضمانات مع الوكالة الدولية للطاقة الذرية فى اطار التعاون المصرى الأمريكى فى ظل الاتفاق . وبالنسبة للفقره ٣ من المادة ١٢ ،تؤكد حكومة الولايات المتحدة بانها ستوفر حماية مناسبة للمعلومات المؤتمن عليها التى تقدم اليها من حكومة جمهورية مصر العربية أو الوكالة الدولية للطاقة الذرية .

تتعهد الولايات المتحدة بمساعدة جمهورية مصر العربية فى انشاء نظام وطنى كفء للضمانات يشمل ، ضمن أشياء أخرى ، المحاسبة والتحكم فى المواد .

ونظرا للنتائج الخطيرة التى قد تنتج عن احتمال تطبيق المادة ١١ (١) سيتشاور الطرفان فورا لاستعراض الموقف قبل وقف التعاون ، بما فى ذلك ما يتصل بعدم الانتشار والتحقق من التدابير ، ان وجدت ، التى يمكن اتخاذها لتصحيح

فان الولايات المتحدة ستخطر جمهورية مصر العربية بذلك مسبقا ، قبل شحن مثل هذه المواد وتسعى لايجاد ترتيبات موقته مرضية لكلا الطرفين .

الضمانـــــات

اذا علم أحد الطرفين بالظروف المشار اليها فى الفقره ٣ من المادة ٩ ، واقتداء بمبادىء واجراءات ضمانات الوكالة الدولية للطاقة الذرية ، فان ضمانـــات يكون نطاق تطبيقها هو ما تتطلبه الفقره ٢ من المادة ٩ تصبح فورا قابلة للتطبيق وتتضمن فى الترتيبات الواردة فى الفترة ٣ من المادة ٩ ويكون لها الخصائص التالية :

(أ) المراجعة فى توقيت مناسب لتصميم أى من المعدات المنقولة بموجب الاتفاق ، أى أى من المنشآت التى تستخدم ، أو تصنع أو تعالج أو تخزن أى مواد منقولة على هذا النحو ، أو أى مواد نووية خاصة مستخدمة فى أو منتجة من خلال استخدام مثل هذه المواد أو المعدات ؛

(ب) اعداد وحفظ سجلات وتقارير خاصة بهدف المساعدة فى توفير المحاسبة عن المواد المنقولة بموجب الاتفاق ، وأى مواد مصدرية أو مواد نووية خاصة مستخدمة فى أو منتجة من خلال استخدام المواد أو المعدات أو المكونات المنقولة على هذا النحو ،

(جـ) تحديد أفراد مقبولين لدى جمهورية مصر العربية يسمح لهم بدخول جميع الاماكن والاطلاع على المعلومات الضرورية للمحاسبة بالنسبة للمواد المشار اليها فى الفقره (ب) ، ولفحص أية معدات أو منشآت مشار اليها فى الفقرة (أ) ولتركيب أية أجهزة خاصة بالضمانات ، ولاجراء أية قياسات مستظهرة قد تكون ضرورية للمحاسبة بالنسبة لهذه المواد ، ولن تحجب جمهورية مصر العربية موافقتها بدون مبرر ، على الافراد المحددين من الطرف الذى يقوم بتطبيق الضمانات بموجب هذه الفقره . وهؤلاء الاشخاص يرافقهم افراد من جمهورية مصر العربية اذا ما طلبت الاخيرة أو الطرف الذى يقوم بتطبيق الضمانات

الحماية المادية

١ - تولى كل من الدولتين الأهمية لتطبيق التدابير الكافية للحماية المادية للمواد النووية والمعدات والمنشآت لحمايتها من التخريب ، أو التحويل ، أو السرقة . ويلاحظ الطرفان أن موضوع ضمان توفير الحماية الكافية للمنشآت النووية المدنية والمواد النووية المتعلقة بها يعتبر ذا أهمية كبيرة لنمو الصناعة النووية بأسرها بنجاح ، وان حكومة جمهورية مصر العربية عليها مسئولية هامة بموجب احكام الاتفاق لضمان الحماية المناسبة للمواد والمعدات الخاضعة للاتفاق .

وتعاون حكومة الولايات المتحدة حكومة جمهورية مصر العربية فى ارساء تدابير الحماية التى يتفق عليها فيما بينهما ، وتقوم بتنفيذها جمهورية مصر العربية بهدف استيفاء احكام المادة ٧ . وتأخذ هذه التدابير فى الحسبان تجارب الطرفين والنظم المحلية بالاضافة الى الارشادات التى أصدرتها الوكالة الدولية للطاقة الذرية . وتمثل هذه المستويات والتدابير المتفق عليها الأساس للوفاء بالالتزامات الخاصة بالحماية المادية فى الاتفاق . وان الولايات المتحدة على استعداد للتعاون فى مساعدة جمهورية مصر العربية للوصول الى تلك الاهداف عن طريق وسائل مثل تدريب الافراد والترخيص بالحصول على المعدات اللازمة .

٢ - بالاشارة الى الفقرتين ١ و ٢ من المادة ٧ وبرغم أن معظم المنشآت فى الولايات المتحدة يتوفر لها حماية مادية مماثلة لما هو محدد بالنسبة للمواد المدرجة فى المرتبتين الثانية والثالثة فى الجدول المرفق بملحق الاتفاق فان الولايات المتحدة لم تنته من استكمال وضع القواعد الضرورية الخاصة بالحماية المادية لتلك المواد . والى أن يتم وضع هذه القواعد ، فان أى متلقى محتمل لمواد من المرتبتين الثانية والثالثة منقولة اليه بموجب الاتفاق ولا يوفر لها - كحد أدنى - حماية مادية كتلك المحددة فى INFCIRC/225 Revision 1 ؛

واذا ما أظهرت مثل هذه التطورات التقنية اثناء مدة سريان الاتفاق أن فوائد اقتصادية تعود على برنامج القوى النووية لجمهورية مصر العربية من خلال استخدام مثل هذه الدورات للوقود في المفاعلات بالمقارنة ببدائل أخرى ، فيمكن مراجعة الاتفاق وتعديله وفقا لاحكام الفقرة الثانية من المادة ١٢ للسماح بنقل مثل هذا الوقود الى جمهورية مصر العربية على أن يوافق الطرفان على أن مثل هذا الاستخدام يتفق تماما مع حرصهما على عدم الانتشار .

تؤكد حكومة الولايات المتحدة الأمريكية أنه ليس هناك في الاتفاق ما يعوق حكومة جمهورية مصر العربية من الحصول على أى فوائد يمكن الحصول عليها في ظل المادة الخامسة من معاهدة عدم انتشار الاسلحة النووية وبما يتمشى والتزامات واهداف تلك المعاهدة وغيرها من الاتفاقيات الدولية السارية .

اختيار المنشآت

تدعو المادتان ٥ ، ٦ الى الاتفاق المشترك لاختيار المنشآت التي يتم فيها ممارسة الانشطه المحددة . وبالنسبة لأى اعادة معالجة لمواد مصدرية مشععه أو مواد نووية خاصة ناتجة من معدات أو مواد موردة بموجب الاتفاق ، وأى تخزين أو تصنيع للمواد النووية الخاصة المستخلصة نتيجة لمثل هذه الاعادة للمعالجة (عدا المادة المصدرية واليورانيوم المثرى بنسبة اقل من ٢٠٪ بالنظير ٢٣٥) فتتم في منشآت خارج جمهورية مصر العربية ، على أن يكون التصرف في أى من البلوتونيوم المنتج خاضعا للاتفاق بين الطرفين . وتسترشد حكومة الولايات المتحدة الامريكية في ممارسة حقوقها بموجب هذه المواد من الاتفاق بالنسبة للموافقة على أنشطه معينة والموافقة على اختيار المنشآت سواء أكانت في الولايات المتحدة أو غيرها باعتبارات عدم الانتشار والضمانات الى جانب التطورات التقنية والاقتصادية . كما أن الولايات المتحدة من واقع مسئوليتها لن تحجب موافقاتها على هذه الانشطه بغير مبرر اذا ما استوفت ما يتعلق بها من متطلبات تشريعية كما أنها لن تسعى الى تحقيق أى مكاسب تجارية .

يتشاور الطرفان بصفة دورية حول الوسائل التى تخدم على أكمل وجه اهدافهما المشتركة بالنسبة لمنع الانتشار والطاقة النووية ، ويعمل كل طرف على تجنب اتخاذ أية اجراءات تؤثر على أسس واحكام التعاون فى ظل الاتفاق . وفى حالة اعتزام أى طرف اتخاذ مثل هذه الاجراءات فعليه أن يتشاور مسبقا مع الطرف الآخر من أجل - ضمن أمور أخرى - التاكد مما اذا كانت هناك ضرورة لاجراء أى تعديل للاتفاق وفقا لاحكام المادة ١٢ .

ويلاحظ الطرفان أن اصطلاح " مادة مصدرية " لا يفسر على أنه ينطبق على الخام الا كما هو منصوص عليه فى الفقره "ف" من المادة الثانية .

يقتضى التصرف فى أى مواد نووية خاصة مستخدمة فى أو منتجة من خلال استخدام أى من المواد أو المعدات المنقولة بموجب الاتفاق موافقة الطرفين وفقا لما ورد فى المادتين ٥ ، ٦ . وبغض النظر عن المادتين ٥ ، ٦ فانه فى حالة ما اذا قدر أحد الطرفين أن هناك ظروفا استثنائية تدعو للقلق فيما يتعلق بعدم الانتشار فيمكن لأى منهما أن يطلب التصرف فى أى من هذه المواد النووية الخاصة الى بلد آخر يتم الاتفاق عليه بين الطرفين ، أو الى الولايات المتحدة فى حالة استعدادها لقبول مثل هذه المواد النووية الخاصة ؛ وفى هذه الحالة يتخذ الطرفان التدابير التنفيذية المناسبة بما فى ذلك التعويض المناسب من جانب الولايات المتحدة اذا ما تم التصرف فى مثل هذه المواد النووية الخاصة اليها .

وبالاشارة الى المادة ١٢ ، يدرك الطرفان أن حكومة مصر ليس لديها خطط فى المدى القريب للدخول فى برنامج مفاعلات التوليد السريعة أو للسير فى اعادة استخدام البلوتونيوم فى المفاعلات الحرارية . ومع ذلك ينوى الطرفان متابعة التطورات الدولية المستقبلة فى تقنية المفاعلات المتقدمة للتأكد مما اذا كانت هناك فوائد اقتصادية تعود على البرنامج القومى النووى المصرى نتيجة لتلك التطورات .

محضر متفق عليه

أثناء التفاوض حول الاتفاق المقترح للتعاون بين حكومة الولايات المتحدة الأمريكية وحكومة جمهورية مصر العربية بشأن الاستخدامات السلمية للطاقة النووية والمشار اليه " بالاتفاق " والذى تم توقيعه بتاريخ اليوم ، تم التوصل بين الطرفين الى المفاهيم التالية ، والتى تعد جزءا لا يتجزأ من الاتفاق .

يراعى الطرفان أن الاتفاق سيسمح بنقل التقنية والمعدات الخاصة بالتوليد النووى للقوى الكهربائية ، من الولايات المتحدة الى جمهورية مصر العربية ، بما يشمل فى البداية نقل التقنية والمعدات اللازمة للتوليد النووى للكهرباء بقدرة حوالى ٢٠٠٠ ميجاوات كهربائى ، واليورانيوم المثرى اللازم لتحقيق هذه القدرة .

ينوى الطرفان التعاون بموجب هذا الاتفاق وفقا لاحكام تضمن عدم وضع أى منهما فى موقف اقتصادى مجحف ، والا يكون لها أثر عكسى على نطاق التعاون كما يدرك الطرفان أحقية كل منهما فى التعاون مع دول أخرى أو منظمات دولية على نحو مساند لاهداف معاهدة عدم انتشار الأسلحة النووية .

نطاق الاتفاق

تسرى مواد هذا الاتفاق وفقا لاحكامها فى حالة نقل مواد ،أو معدات أو مكونات أو معلومات من اقليم أحد الطرفين الى اقليم الطرف الآخر وذلك لاستخدامها فى اغراض سلمية ، ويكون ذلك اما بالنقل المباشر بين الطرفين ، أو عن طريق دولة أخرى ، وبعد أن تؤكد الجهة الحكومية المختصة فى كلا الطرفين أن هذه المواد ، أو المعدات ، أو المكونات أو المعلومات خاصة بالاتفاق .

تتعاون جمهورية مصر العربية والولايات المتحدة فى مجال استخدام الطاقة النووية للاغراض السلمية وفقا لاحكام الاتفاق ووفقا للمعاهدات والقوانين الوطنية واللوائح ومتطلبات التراخيص السارية بالنسبة لكل منهما .

/أ كل بلوتونيوم عدا ذلك البلوتونيوم الذى يحتوى على نظير البلوتونيوم ٢٣٨ بنسبة أكثر من ٨٠٪ .

/ب مادة غير مشعة فى مفاعل ، أو مادة مشعة فى مفاعل ولكن بمستوى اشعاعى اقل من ١٠٠ راد / ساعه أو تساويه على مسافة متر واحد وبدون حاجز واقى .

/جـ كمية أقل من أن يكون لها أهمية اشعاعية يجب اعفاؤها .

/د اليورانيوم الطبيعى ، واليورانيوم المستنفذ والثوريوم والكميات من اليورانيوم المثرى الى اقل من ١٠٪ والذى لا يدخل فى المرتبة الثالثة يجب حمايته طبقا لأصول الادارة الحكيمة .

/هـ بالرغم من التوصية بالأخذ بهذه الدرجة من الحماية الا أن الحكومات ـ بعد مراجعة للظروف الخاصة ـ يمكنها تحديد درجة أخرى ومختلفة من الحماية المادية .

/و الوقود الذى يصنف على أنه من المرتبة الاولى أو الثانية بناء على ما كان يحتويه اصلا من المواد الانشطارية قبل تشعيعه يمكن أن يعاد تصنيفه بالمرتبة الادنى مباشرة اذا كان مستواه الاشعاعى يزيد على ١٠٠ راد / ساعه على مسافة متر وبدون حاجز واقى .

جدول تحديد مرتبات المواد النووية

المادة	الشكل	المرتبة		
		الأولى	الثانية	الثالثة
١- البلوتونيوم / أ	غير المشعع / ب	٢ كجم أو أكثر	أقل من ٢ كجم ولكن أكثر من ٥٠٠ جم	٥٠٠جم أو أقل / جـ
٢- يورانيوم ٢٣٥	غير مشعع / ب - يورانيوم مثرى الى ٢٠٪ يورانيوم ٢٣٥ أو أكثر - يورانيوم مثرى الى ١٠٪ يورانيوم ٢٣٥ ولكن أقل من ٢٠٪ - يورانيوم مثرى الى أعلى من النسبة الطبيعية ولكن أقل من ١٠٪ يورانيوم ٢٣٥ / د	٥ كجم أو أكثر -- -	أقل من ٥ كجم ولكن أكثر من ١ كجم ١٠ كجم أو أكثر -	١كجم أو أقل / جـ أقل من ١٠كجم / جـ ١٠ كجم أو أكثر
٣- يورانيوم ٢٣٣	غير مشعع / ب	٢ كجم أو أكثر	أقل من ٢ كجم ولكن أكثر من ٥٠٠ جم	٥٠٠جم أو أقل / جـ
			يورانيوم مستنفذ أو طبيعي ، ثوريوم ، أو وقود منخفض الاثراء (أقل من ١٠٪ محتوى انشطاري / هـ ، / و)	

المرتبة الأولى :

يتم حماية المواد التى تتضمنها هذه الفئة ضد أى استخدام غير مصرح به عن طريق نظام أمن موثوق فيه غاية الثقة ، كما يلى :

الاستخدام والتخزين داخل منطقة مزودة بأساليب حماية عالية مثل تلك المعترفة بالمرتبة الثانية بعالية بالاضافة الى حظر دخولها الا بالنسبة لاشخاص يتوافر فيهم مقومات الثقة ، ويقوم بمراقبتها حراس لهم اتصال مباشر بقوات التدخل المناسبة ، وينبغى أن يكون هدف التدابير المحددة التى تتخذ فى هذا الشأن الكشف عن منع أى هجوم على المواد أو الوصول غير المصرح به اليها أو التغيير غير المصرح لمكانها .

النقل يتم تحت احتياطات خاصة كتلك المذكورة بعالية لنقل المواد من المرتبتين الثانية والثالثة بالاضافة الى توفر الرقابة المستمرة من مرافقين وتحت شروط تضمن الاتصال المباشر بقوات التدخل المناسبة .

ملحـــــــق

عملا بالفقرة ٢ من المادة ٧ ، فان مستويات الحماية المادية المتفق عليهـــا والمقرر توفيرها بواسطة السلطات الوطـــنية المختصة باستخدام وتخزين ونقل المـــواد الواردة فى الجدول المرفق ، تشمل كحد أدنى خصائص الحماية على النحو التالى :

المرتبة الثالثة :

الاستخدام والتخزين داخل منطقة توضع منافذها تحت الرقابة .

النقل يتم تحت احتياطات أمن خاصة بما فيها الترتيبات المسبقة بين الراســـل والمستلم والناقل وكذلك الاتفاق المسبق بين الجهات الخاضعة للولايـــــة والتنظيم من الدولة الموردة أو المستلمة على التوالى ، ويوضح فى حالة النقـــل الدولى زمان ومكان وقواعد انتقال مسئولية النقل .

المرتبة الثانية :

الاستخدام والتخزين داخل منطقة محمية وتوضع منافذها تحت الرقابة بمعـــنى أن توضع هذه المنطقة تحت المراقبة المستمرة سواء من حراس أو أجهـــــــزة الكترونية ، ومحاطة بسياج مادى مزود بنقط دخول تحت رقابة مناسبـــــة أو أى منطقة بمستوى معادل من الحماية المادية .

النقل يتم تحت احتياطات أمن خاصة بما فيها الترتيبات المسبقة بين الراسل والمستلم والناقل وكذلك الاتفاق المسبق بين الجهات الخاضعة للولايـــــة والتنظيم من الدولة الموردة والمستلمه على التوالى ، ويوضح فى حالة النقـــل الدولى زمان ومكان وقواعد انتقال مسئولية النقل .

(مادة ١٥)

التسجيـــــــــــــــل

يسجل هذا الاتفاق وفقا للمادة ١٠٢ من ميثاق الأمم المتحدة .

يشهـد بذلك الموقعان أدناه والمفوضان قانونا ، قد وقعا على هذا الاتفاق في واشنطن في اليوم التاسـع والعشـرين من شهر يونيه سنة ١٩٨١ من نسختين احداهما باللغة الانجليزية والثانية باللغة العربية . ولكلا النسختين ذات الحجية .

عن حكومة الولايات المتحدة الأمريكية

عن حكومة جمهورية مصر العربية

(مادة ١٣)

تسوية المنازعات

يسعى الطرفان الى تسوية أى نزاع يتعلق بتفسير أو تنفيذ هذا الاتفاق عن طريق التفاوض ، أو التحقق أو الوساطة ، أو التوفيق ، أو التحكيم ، أو التسوية القضائية أو أية وسائل سلمية أخرى يختارانها .

(مادة ١٤)

دخول الاتفاق دور النفاذ ومدة سريانه

١ - يدخل هذا الاتفاق دور النفاذ من تاريخ تبادل الطرفين للمذكرات الدبلوماسية التى يخطر بموجبها كل من الطرفين الطرف الآخر بأنه قد التزم بكل المتطلبات اللازمة لنفاذ الاتفاق . ويظل هذا الاتفاق نافذا لمدة ٤٠ (أربعين) عاما ويجوز مراجعته بين الحين والآخر أو تمديده لفترات اضافية حسبما يتم الاتفاق عليه بين الطرفين وطبقا لمتطلباتهما السائدة .

٢ - فيما عدا حالات وقف أو انهاء أو انتهاء هذا الاتفاق أو أى تعاون بموجبه لأى سبب من الاسباب تظل المواد ٥ ، ٦ ، ٧ ، ٨ ، ٩ ، ١١ ، سارية المفعول طالما بقيت أى من المواد أو المعدات أو المكونات التى تخضع لاحكام المواد المشار اليها فى اقليم الطرف المعنى أو تحت ولايته أو اشرافه فى أى مكان أو الى الوقت الذى يتفق فيه الطرفان على أن هذه المواد أو المعدات أو المكونات لم تعد صالحة للاستخدام فى أى نشاط نووى فيما يتعلق بالضمانات .

٣ - اذا مارس أى من الطرفين حقوقه بموجب هذه المادة ، فى طلب استعادة أية مواد أو معدات أو مكونات ، يقوم هذا الطرف ، بعد خروجها من اقليم الطرف الآخر ، بتعويضه عن تلك المواد أو المعدات أو المكونات بقيمتها السوقية العادلة ، وفى حالة ممارسة هذا الحق ، يقوم الطرفان باتخاذ أى ترتيبات أخرى ملائمة حسبما يقتضيه الحال وبحيث لا تخضع هذه الترتيبات لأى اتفاق آخر بين الطرفين سوى ما نصت عليه المادتان ٥ ، ٦ .

(مادة ١٢)

التشاور والمراجعة والسرية والحماية البيئية

١ - يتشاور الطرفان بناء على طلب أى منهما فيما يتعلق بتنفيذ هذا الاتفاق وتنمية المزيد من التعاون فى مجال الاستخدامات السلمية للطاقة النووية .

٢ - يتم مراجعة هذا الاتفاق فى أى وقت بناء على طلب أى من الطرفين للأخذ فى الحسبان تطورات منع الانتشار على المستويين الاقليمى والدولى ، أو التطورات التكنولوجية والترتيبات التنظيمية الدولية ، أو احتياجات جمهورية مصر العربية الاقتصادية وتلك الخاصة بالطاقة ، أو أية ظروف أخرى قد يكون لها ما يبررها ، ويمكن تعديل نصوص هذا الاتفاق باتفاق الطرفين وبما يتمشى مع متطلباتهما السائدة .

٣ - يتخذ الطرفان كافة الاحتياطات لحماية أية معلومات تصل الى علمهما بالنسبة لتنفيذ هذا الاتفاق والتى يحددها الطرف المورد - وقت نقلها أو تلقيها - على أنها غير قابلة للتداول أو أنها سرية .

٤ - يتشاور الطرفان فى الأمور المتعلقة بالآثار البيئية للاستخدام السلمى للطاقة النووية بهدف حماية البيئة من التلوث الاشعاعى أو الكيمائى أو الحرارى الناتج عن الانشطة النووية السلمية ، وفى الأمور المتصلة بالصحة والامان ، ويتعاونان فى هذه المجالات طبقا لما يتفقان عليه .

(مادة ١٠)

الضوابط فى حالة تعدد الموردين

قد يكون لأحد الطرفين فى ظل ظروف معينة اتفاق منفصل للتعاون السلمى فى المجال النووى مع دولة أخرى أو مجموعة من الدول ، يوفر لتلك الدولة الأخرى أو المجموعة من الدول حقوقا مساوية لأى أو لكل من الحقوق الواردة فى المواد ٥ ، ٦ ، ٧ فيما يتعلق بالمواد أو المعدات أو المكونات الخاضعة لتلك الحقوق بموجب هذا الاتفاق . فى مثل هذه الظروف ومن أجل تبسيط تطبيق المواد المشار اليها - يجوز للطرفين ، بناء على طلب أى منهما ، الاتفاق على أن تقوم الدولة الأخرى أو مجموعة الدول بتولى تنفيذ ما للطرف الآخر من حقوق .

(مادة ١١)

وقف التعاون

١ - فى حالة قيام أى من الطرفين فى أى وقت بعد دخول هذا الاتفاق دور النفاذ :

أ - بانتهاك الاحكام الواردة فى المواد ٥ أو ٦ أو ٧ أو ٨ أو ٩ ،

ب - بانهاء أو الغاء أو انتهاك اتفاق ضمانات يعقد مع الوكالة الدولية للطاقة الذرية ؛

يحق للطرف الآخر أن يوقف تقديم المزيد من التعاون بموجب هذا الاتفاق ، وأن يطلب اعادة أية مواد أو معدات أو مكونات منقولة بموجبه ، وكذلك أية مواد نووية خاصة منتجة من خلال استخدامها .

٢ - اذا قامت جمهورية مصر العربية فى أى وقت بعد دخول هذا الاتفاق دور النفاذ بتفجير جهاز تفجير نووى ، يكون للولايات المتحدة ذات الحقوق المحددة فى الفقره ١ أعلاه .

بشأن تطبيق الضمانات الخاصة بمعاهدة عدم انتشار الأسلحة النووية .

٣ - اذا ما علم أحد الطرفين بظروف تثبت أن الوكالة الدولية للطاقة الذرية غير قادرة لأى سبب من الأسباب على تطبيق الضمانات وفقا للاتفاق المشار اليه فى الفقره ٢ أعلاه ، يقوم بابلاغ الطرف الآخر ، وضمانا للاستمرار الفعال لهذه الضمانات يقوم الطرفان على الفور بوضع الترتيبات التى تتفق مع مبادىء واجراءات ضمانات الوكالة الدولية للطاقة الذرية والتى تغطى ما تشمله الفقرة المشار اليها وتوفر ضمانا معادلا لذلك الذى كان يستهدفه النظام المستبدل .

٤ - يضمن كل طرف اتخاذ التدابير اللازمة للمحافظة على الضمانات التى تتناولها هذه المادة وتيسير تطبيقها .

٥ - يقوم كل طرف بانشاء والحفاظ على نظام للمحاسبة والتحكم لكل المواد المنقولة بموجب هذا الاتفاق وأى مواد مستخدمة فى أو منتجة من خلال استخدام أى من المواد أو المعدات أو المكونات المنقولة بموجب هذا الاتفاق ، وتكون اجراءات هذا النظام معادلة لتلك المنصوص عليها فى وثيقة الوكالة الدولية للطاقة الذرية INFCIRC/153 corrected أو فى أى تنقيح لهذه الوثيقة يوافق عليه الطرفان .

٦ - يتم تنفيذ الاحكام الواردة فى هذه المادة على نحو يتلافى عرقلة الأنشطه النووية لكل من الطرفين أو تأخيرها أو التدخل غير الواجب فيها ، وأن تطبق بصورة تتمشى مع أساليب الادارة الحكيمة اللازمة لسير برامجهما النووية بصورة اقتصادية ومأمونة .

٥ - يتم تنفيذ الأحكام الواردة فى هذه المادة على نحو يتلافى عرقلة الأنشطة النووية لكل من الطرفين أو تأخيرها ؛ أو التدخل غير الواجب فيهما ؛ وعلى نحو يتمشى مع أساليب الادارة الحكيمة اللازمة لسير برامجهما النووية بصورة اقتصادية ومأمونة .

(مادة ٨)

حظر التطبيقات العسكرية أو التفجيرات

يضمن كل طرف عدم استخدام أية مواد ، أو معدات ، أو مكونات منقولة اليه بموجب هذا الاتفاق وتخضع لولايته ، وأية مواد مستخدمة فى أو منتجة من خلال استخدام أى من تلك المواد أو المعدات أو المكونات المنقولة اليه وتخضع لولايته فى أى جهاز تفجير نووى ، أو فى البحوث أو التطويرات المتعلقة بأية جهاز تفجير نووى ، أو لأى غرض عسكرى .

(مادة ٩)

الضمانات

١ - يتطلب التعاون بموجب هذا الاتفاق تطبيق ضمانات الوكالة الدولية للطاقة الذرية بالنسبة لكافة الأنشطة النووية داخل اقليم جمهورية مصر العربية والتى تخضع لولايتها أو التى تزاول تحت سيطرتها فى أى مكان . ويعتبر ابرام وتنفيذ اتفاق الضمانات مع الوكالة الدولية للطاقة الذرية وفقا للفقرتين ١ ، ٤ من المادة ٣ من معاهدة عدم انتشار الأسلحة النووية محققا لهذا المطلب .

٢ - المواد المنقولة الى جمهورية مصر العربية بموجب هذا الاتفاق وكذلك أى مواد مصدرية ، أو مادة نووية خاصة ، مستخدمة فى أو منتجة من خلال استخدام أى من المواد أو المعدات أو المكونات المنقولة بموجب هذا الاتفاق ، تخضع لضمانات وفقا للاتفاق ما بين جمهورية مصر العربية والوكالة الدولية للطاقة الذرية

(مادة ٧)

الحماية المادية

١ - يضمن كل طرف توفير قدر كاف من الحماية المادية لأى من المواد والمعدات المنقولة اليه بموجب هذا الاتفاق وتخضع لولايته ، وكذلك لأى من المواد النووية الخاصة المستخدمة فى أو المنتجة من خلال استخدام أى من هذه المواد أو المعدات المنقولة اليه بموجب هذا الاتفاق وتخضع لولايته .

٢ - يوافق الطرفان على مستويات تطبيق الحماية المادية المنصوص عليها فى ملحق هذا الاتفاق ، ويجوز تعديل هذه المستويات بالاتفاق المتبادل بين الطرفين . ويحافظ الطرفان على توفير التدابير الكافية للحماية المادية وفقا لتلك المستويات . وتوفر هذه التدابير حدا أدنى من الحماية يعادل تلك المنصوص عليها فى وثيقة الوكالة الدولية للطاقة الذرية INFCIRC/225 Revision 1 بشأن الحماية المادية للمواد النووية ، أو فى أى تنقيح لهذه الوثيقة يوافق عليه الطرفان .

٣ - يستعرض الطرفان بصفة دورية مدى كفاية تدابير الحماية المادية المتفق عليها طبقا لهذه المادة ، وكذلك كلما رأى أن من الطرفين الحاجة الى تدابير معدله للحفاظ على حماية مادية كافية .

٤ - يحدد كل طرف الأجهزة أو الهيئات المسئولة عن ضمان توافر مستويات الحماية المادية الكافية وكذلك المسئولة عن تنسيق عمليات الاستجابة والاستعادة فى حالة الاستخدام أو التداول غير المسموح به للمواد التى تخضع لهذه المادة ، ويحدد كل طرف نقاط الاتصال داخل سلطاته الوطنية للتعاون فى مسائل النقل خارج البلاد ، والأمور الأخرى ذات الاهتمام المتبادل .

اقتصاديات التخزين ومالها من آثار على تكلفة الطاقة .

٢ - المواد والمعدات والمكونات المنقولة بموجب هذا الاتفاق وكذلك المواد النووية الخاصة والمنتجة من خلال استعمال أى من هذه المواد أو المعدات يجوز للطرف المتلقى أن ينقلها ، على أن يضمن هذا الطرف عدم نقل تلك المواد أو المعدات أو المكونات أو المواد النووية الخاصة التى تخضع لولايته الى أشخاص غير معتمدين ، وألا تنقل خارج نطاق ولايته الاقليمية الا باتفاق الطرفين .

(مادة ٦)

اعادة المعالجة والاثراء

١ - يضمن كل طرف عدم اعادة معالجة المواد المنقولة اليه بموجب هذا الاتفاق والتى تخضع لولايته وكذلك المواد المستخدمة فى أو المنتجة من خلال استخدام أى من المواد أو المعدات المنقولة اليه بموجب هذا الاتفاق وتخضع لولايته الا باتفاق الطرفين . وفى حالة اتفاق الطرفين على اعادة المعالجة ، يتم ذلك فقط فى منشآت مقبولة منهما .

٢ - يضمن كل طرف عدم تغيير شكل أو محتوى أية مواد نووية خاصة (عدا اليورانيوم غير المشعع منخفض الاثراء) منقولة اليه بموجب هذا الاتفاق وتخضع لولايته أو أية مواد مستخدمة فى أو منتجة من خلال استخدام أى من المواد أو المعدات المنقولة اليه بموجب هذا الاتفاق وتخضع لولايته الا باتفاق الطرفين ، باستثناء أن يكون التغيير عن طريق التشعيع أو اعادة التشعيع .

٣ - يضمن كل طرف أن اليورانيوم المنقول اليه بموجب هذا الاتفاق ويخضع لولايته ، وكذلك اليورانيوم المستخدم فى أى من المعدات المنقولة اليه وتخضع لولايته ، لا يجوز اثراؤه بعد اتمام نقله الا باتفاق الطرفين .

٣ - لا تتجاوز كمية المواد النووية الخاصة المنقولة الى جمهورية مصر العربية بموجب هذا الاتفاق فى أى وقت من الاوقات الكمية التى يتفق الطرفان على أنها ضرورية لأى غرض من الاغراض التالية : تزويد المفاعلات بالوقود أو للاستخدام فى تجارب المفاعلات ، وللتشغيل الكفء والمستمر لهذه المفاعلات أو اجراء مثل هذه التجارب للمفاعلات ، ولتحقيق الاغراض الاخرى التى قد يتفق عليها الطرفان .

٤ - يمكن نقل المواد النووية الخاصة : (أ) بكميات صغيرة لاستخدامها كعينات، ومعايير ، وأجهزة كشف وأهداف ، وأية أغراض أخرى قد يتفق عليها الطرفان ، أو (ب) ما يتفق الطرفان على أنها ليست ذات أهمية لاغراض التفجير النووى وانها قد استهلكت أو تم تخفيفها أو تحويلها بحيث أصبح من غير الممكن عمليا استعادتها .

٥ - تتخذ الولايات المتحدة الاجراءات الملائمة لضمان امدادات يعتمد عليها من الوقود النووى لجمهورية مصر العربية ، بما فى ذلك تصدير المواد النووية فى توقيتات مناسبة مع توافر المقدرة على الوفاء بهذا التعهد خلال مدة سريان هذا الاتفاق .

(مادة ٥)

التخزين واعادة النقل

١ - المواد المنقولة بموجب هذا الاتفاق ، والمواد المستخدمة فى أو المنتجة من خلال استخدام أى مواد أو معدات منقولة بموجبه ، يجوز تخزينها بمعرفة أى من الطرفين ، على أن يضمن كل طرف عدم تخزين مثل هذه المواد النووية الخاصة التى تخضع لولايته - فيما عدا اليورانيوم غير المشعع منخفض الاثراء - فى أى منشأة لم يتم الاتفاق عليها مسبقا من الطرفين ؛ وعند اختيار منشأة التخزين يعطى الاعتبار المناسب الى الجوانب الخاصة بمنع الانتشار وكذلك

(ط) اعتبارات الصحة والأمان والبيئة المتعلقة بالمجالات السابق ذكرها ؛

(ى) تقدير الدور الذى قد تلعبه الطاقة النووية فى الخطط القومية للطاقة .

ويقوم الطرفان باتخاذ كافة الاحتياطات لحماية أى من تلك المعلومات ، التى تصل الى علمهم ، التى يحددها الطرف المورد لها - فى وقت انتقالها أو تسلمها - على أنها ملك له أو سرية .

٢ - لا يستلزم هذا الاتفاق نقل أية معلومات غير مسموح للطرفين بنقلها .

٣ - المعلومات المحظورة لا يجوز نقلها بموجب هذا الاتفاق .

٤ - يمكن نقل التقنية النووية الحساسه اذا توفر ذلك بموجب تعديل لهذا الاتفاق أو باتفاق منفصل .

(مادة ٤)

نقل المواد ، والمعدات ، والمكونات

١ - يمكن نقل المواد والمعدات والمكونات لاغراض التطبيقات التى تتمشى مع هذا الاتفاق . وبالنسبة للمواد النووية الخاصة - عدا اليورانيوم منخفض الاثراء والمواد المشمولة بالفقره الرابعة - والمنشآت النووية الحساسه والمكونات الرئيسية الاساسية التى تستخدم فى تلك المنشآت فيمكن نقلها الى جمهورية مصر العربية اذا توفر ذلك بموجب تعديل لهذا الاتفاق أو باتفاق منفصل .

٢ - يمكن نقل اليورانيوم منخفض الاثراء لاستخدامه كوقود للمفاعلات وفى تجارب المفاعلات ، ولاغراض التحويل أو التصنيع أو لأية أغراض أخرى من هذا القبيل قد يتفق عليها الطرفان .

ق - " منشأة استخدام" تعنى أى مفاعل عدا ذلك الذى يصمم أو يستخدم أساسا لانتاج البلوتونيوم أو اليورانيوم ٢٣٣ .

(مادة ٣)

نقل المعلومات

١ - المعلومات المتعلقة باستخدام الطاقة النووية فى الاغراض السلمية يمكن نقلها بما فى ذلك المعلومات المتعلقة بالمجالات الآتيه على سبيل المثال :

(أ) تطوير ، وتصميم ، وانشاء ، وتشغيل ، وصيانة ، واستخدام مفاعلات الابحاث ومفاعلات اختبار المواد والمفاعلات التجريبية ونماذج مفاعلات القوى ومفاعلات القوى ؛

(ب) استخدام الطاقة النووية فى ازالة ملوحة المياه ؛

(جـ) تنقية وتحويل خام اليورانيوم وتصنيع وقود مفاعلات الماء العادى لتوليد القوى ؛

(د) أجهزة القياس النووية ؛

(هـ) التنقيب عن مصادر اليورانيوم وتنميتها ؛

(و) استخدام المواد فى البحوث الفيزيائية والبيولوجية وفى الطب والزراعة والصناعة ؛

(ز) دراسات دورة الوقود للتوصل الى طرق تلبية الاحتياجات المدنية النووية فى العالم مستقبلا ، بما فى ذلك السبل المتعددة لضمان امدادات الوقود النووى والاساليب الفنية المناسبة للتصرف فى النفايات النووية ؛

(ح) الضمانات والحماية المادية للمواد والمعدات ؛

أو أى عنصر آخر يتحدد على هذا النحو باتفاق الطرفين ؛

م - " مفاعل " يعنى أى جهاز ،عدا سلاح نووى أو جهاز آخر للتفجير النووى ، يتم فيه تفاعل ذاتى متسلسل للانشطار باستخدام اليورانيوم أو البلوتونيوم أو الثوريوم أو أى خليط منها ؛

ن - " بيانات محظورة " تعنى جميع البيانات المتعلقة : (١) بتصميم أو صناعة أو استخدام الأسلحة النووية ، أو (٢) بانتاج المواد النووية الخاصة ، أو (٣) باستخدام المواد النووية الخاصة فى انتاج الطاقة ، ولكن تلك البيانات لا تشمل البيانات التى يرفع عنها الحظر أو التى استبعدتها الولايات المتحدة من فئة البيانات المحظورة ؛

س - " منشأة نووية حساسه " تعنى أية منشأة تصمم من أجل أو تستخدم بصفة أساسية لاثراء اليورانيوم أو لاعادة معالجة الوقود النووى أو لانتاج الماء الثقيل أو لتصنيع الوقود النووى الذى يحتوى على البلوتونيوم ؛

ع - " تقنية نووية حساسه " تعنى أية معلومات (بما فى ذلك المعلومات الداخلة فى تكوين معدات أو مكونات هامة) ليست متداولة ولها أهمية فى مجال تصميم أو انشاء أو تصنيع أو تشغيل أو صيانة أية منشأة نووية حساسه ، أو معلومات أخرى من هذا النوع يتم تحديدها ، على هذا النحو باتفاق الطرفين ؛

ف - " مادة مصدرية " تعنى (١) اليورانيوم ، أو الثوريوم ، أو أية مادة أخرى يتم تحديدها على هذا النحو باتفاق الطرفين ، أو (٢) الخامات التى تحتوى على واحد أو أكثر من المواد السابق ذكرها بنسبة تركيز وفقا لما يمكن أن يتفق عليه الطرفان بين الحين والآخر ؛

ص - " مادة نووية خاصة " تعنى (١) البلوتونيوم أو اليورانيوم ٢٣٣ ، أو اليورانيوم المثرى بالنظير ٢٣٥ أو (٢) أية مادة أخرى يتم تحديدها على هذا النحو باتفاق الطرفين ؛

و - " مكون رئيسى أساسى " يعنى أى جزء أو مجموعة اجراء لازمة لتشغيل أية منشأة نووية حساسه ؛

ز - " مادة " تعنى مادة مصدرية ، أو مادة نووية خاصة ، أو مادة جانبية ، أو النظائر المشعة عدا المواد الجانبية ، أو المواد المهدئة ، أو أية مادة أخرى من هذا النوع يتم تحديدها على هذا النحو باتفاق الطرفين ؛

ح - " مادة مهدئة " تعنى الماء الثقيل أو الجرافيت أو البريليوم ذو نقاوة ملائمة للاستخدام فى مفاعل لابطاء النيوترونات عالية السرعة لزيادة احتمال حدوث مزيد من الانشطار ، أو أية مواد أخرى من هذا النوع يتم تحديدها على هذا النحو باتفاق الطرفين ؛

ط - " الطرفان " تعنى حكومة جمهورية مصر العربية وحكومة الولايات المتحدة الأمريكية ؛

ى - " الأغراض السلمية " تشمل استخدام المعلومات والمواد والمعدات والمكونات فى مجالات مثل البحث ، وتوليد الطاقة الكهربائية ، والطب ، والزراعة ، والصناعة ولكنها لا تشمل الاستخدام فى مجالات البحث أو التطوير الخاصة بأى جهاز للتفجير النووى أو لأى غرض عسكرى ؛

ك - " شخص " تعنى أى فرد أو أى كيان خاضع لولاية أى من الطرفين ، ولكنها لا تشمل طرفى هذا الاتفاق ؛

ل - " منشأة انتاج " تعنى أى مفاعل نووى يتم تصميمه أو استخدامه بصفة أساسية لتكوين البلوتونيوم أو اليورانيوم ٢٣٣ ، أو أية منشأة تصمم من أجل أو تستخدم لفصل نظائر اليورانيوم أو البلوتونيوم ، أو أية منشأة تصمم من أجل أو تستخدم لمعالجة المواد المشععه التى تحتوى على مواد نووية خاصة لفصل أو انتاج مواد نووية خاصة ، الا حيث يتفق الطرفان على أن مقدار ما تستطيع هذه المنشأة انتاجه أو فصله من مواد نووية خاصة يعتبر غير ذى أهمية لأغراض التفجير النووى ،

٢ - ان نقل المعلومات ، والمواد ، والمعدات ، والمكونات بموجب هذا الاتفاق يمكن أن يتم بين الطرفين مباشرة أو عن طريق أشخاص مفوضين بذلك وخاضعين لولايتهما . وتخضع عمليات النقل المشار اليها لأحكام هذا الاتفاق ، وما قد يتفق عليه الطرفان من الشروط والأوضاع الاضافية اذا لزم الأمر .

(مادة ٢)

تعريفات

لاغراض هذا الاتفاق ، فان : -

أ - " منتجات جانبيه " تعنى أية مواد مشعه (عدا المواد النووية الخاصة) نتجت عن أو أصبحت مشعة بتعرضها للاشعاعات المصاحبة لعملية انتاج أو استخدام " مواد نووية خاصة " ؛

ب - " مكون " يعنى جزء مكون لمعدات أو عنصر آخر يتم تحديده على هذا النحو باتفاق الطرفين ؛

جـ - " معدات " تعنى أية منشأة للانتاج أو للاستخدام (بما فى ذلك منشآت اثراء اليورانيوم واعادة معالجة الوقود النووى) أو أية منشأة لانتاج الماء الثقيل أو لتصنيع الوقود النووى الذى يحتوى على البلوتونيوم أو أى عنصر آخر يتم تحديده على هذا النحو باتفاق الطرفين ؛

د - " يورانيوم عالى الاثراء " يعنى اليورانيوم المثرى الى نسبة ٢٠٪ (عشرين فى المائه) أو أكثر من النظير ٢٣٥ ؛

هـ - " يورانيوم منخفض الاثراء " يعنى يورانيوم مثرى الى نسبة أقل من ٢٠٪ (عشرين فى المائة) من النظير ٢٣٥ ؛

إتفاق للتعاون
بين حكومة الولايات المتحدة الأمريكية وحكومة جمهورية مصر العربية
بشأن الاستخدامات السلمية للطاقة النووية

إن حكومة الولايات المتحدة الأمريكية

وحكومة جمهورية مصر العربية

اذ تدركان أن كلا من جمهورية مصر العربية والولايات المتحدة طرف فى معاهدة عدم انتشار الأسلحة النووية ،

واذ تؤكدان مساندتهما لاهداف الوكالة الدولية للطاقة الذرية ومعاهدة عدم انتشار الأسلحة النووية ،

واذ تضعان فى اعتبارهما رغبتهما فى السير فى برنامج للتعاون فى مجال الاستخدام السلمى للطاقة النووية ، بما فى ذلك تصميم وانشاء وتشغيل مفاعلات لتوليد الطاقة ومفاعلات للأبحاث ، وتبادل المعلومات المتعلقة بتطور الاستخدامات السلمية الأخرى للطاقة النووية ،

واذ تضعان فى اعتبارهما خطط حكومة جمهورية مصر العربية للقيام بانشاء محطات قوى نووية كجزء من برنامجها لتوليد الكهرباء والتوسع فيه باستخدام الطاقة النووية ،

واذ تؤكدان رغبتهما فى ابرام هذا الاتفاق للتعاون فيما بينهما لتحقيق الأهداف سالفة الذكر ،

واذ تدركان أن الاضطلاع بالأنشطه النووية السلمية يجب أن يأخذ بعين الاعتبار حماية البيئة الدولية من التلوث الاشعاعى ،والكيمائى ،والحرارى ،

قد اتفقتا على ما يلى :

(ماده ١)

نطاق التعاون

١ - تتعاون جمهورية مصر العربية ، والولايات المتحدة الأمريكية ، فى مجال استخدام الطاقة النووية للأغراض السلمية وفقا لاحكام هذا الاتفاق .

PEOPLE'S REPUBLIC OF CHINA

Consular Relations

Convention, with exchange of notes, signed at Washington September 17, 1980;
Transmitted by the President of the United States of America to the Senate January 19, 1981 (Treaty Doc. No. 97–3, 97th Cong., 1st Sess.);
Reported favorably by the Senate Committee on Foreign Relations June 17, 1981 (S. Ex. Rept. No. 97–14, 97th Cong., 1st Sess.);
Advice and consent to ratification by the Senate December 11, 1981;
Ratified by the President January 4, 1982;
Ratified by the People's Republic of China January 26, 1981;
Ratifications exchanged at Beijing January 19, 1982;
Proclaimed by the President February 8, 1982;
Entered into force February 19, 1982.
And modifying agreement
Effected by exchange of notes
Dated at Beijing January 17, 1981;
Entered into force February 19, 1982.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Consular Convention between the United States of America and the People's Republic of China, together with related notes, was signed at Washington on September 17, 1980, the texts of which are hereto annexed;

The Senate of the United States of America by its resolution of December 11, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention;

The Convention was ratified by the President of the United States

of America on January 4, 1982, in pursuance of the advice and consent of the Senate, and was duly ratified on the part of the People's Republic of China;

It is provided in Article 42 of the Convention that the Convention shall enter into force after the expiration of thirty days following the date of the exchange of instruments of ratification;

The instruments of ratification of the Convention were exchanged at Beijing on January 19, 1982, and accordingly the Convention enters into force on February 19, 1982;

Now, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim and make public the Convention to the end that it shall be observed and fulfilled with good faith on and after February 19, 1982, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this eighth day of February in the year of our Lord one thousand nine hundred eighty-two
[SEAL] and of the Independence of the United States of America the two hundred sixth.

RONALD REAGAN

By the President:
WALTER J STOESSEL
Acting Secretary of State

CONSULAR CONVENTION BETWEEN
THE UNITED STATES OF AMERICA AND
THE PEOPLE'S REPUBLIC OF CHINA

The Government of the United States of America and the Government of the People's Republic of China,

Desiring to regulate and strengthen their consular relations, in order to promote the development of friendly and cooperative relations between the two countries, and thus to facilitate the protection of their national interests and the protection of the rights and interests of their nationals,

Have decided to conclude this Consular Convention and have appointed as their plenipotentiaries the following:

For the United States of America:

Jimmy Carter, President

For the People's Republic of China:

Bo Yibo, Vice Premier

Who, having examined and exchanged their respective full powers, which were found in good and due form, have agreed as follows:

ARTICLE 1

Definitions

For the purpose of the present Convention, the terms listed below shall have the following meanings:

1. "Consulate" means a consulate general, consulate, vice consulate, or consular agency;

2. "Consular district" means the area assigned to a consulate for the exercise of consular functions;

3. "Head of a consulate" means the consul general, consul, vice consul or consular agent who is charged by the sending State to head a consulate;

4. "Consular officer" means any person, including the head of a consulate, who is charged by the sending State with the performance of consular functions;

5. "Consular employee" means any person who performs administrative, technical, or service functions at a consulate;

6. "Member of a consulate" means any consular officer or consular employee;

7. "Members of the family" means the spouse, minor children and other relatives of a member of a consulate who form a part of his household;

8. "Consular premises" means buildings or parts of buildings, as well as the grounds ancillary thereto, used exclusively for the purposes of a consulate, regardless of ownership;

9. "Consular archives" means all correspondence, codes and ciphers, documents, records, files, tapes and books of a consulate, as well as any article of furniture intended for their storage or safekeeping;

10. "Vessel of the sending State" means any vessel sailing under the flag of the sending State, in accordance with the law of the sending State, excluding military vessels;

11. "Aircraft of the sending State" means any aircraft flying under the nationality and registration marks of the sending State, in accordance with the law of the sending State, excluding military aircraft;

12. "Law" means

-- for the People's Republic of China, all national, provincial, municipal, autonomous region and local laws, ordinances, regulations and decisions having the force and effect of law;

-- for the United States of America, all federal, state or local laws, ordinances, regulations and decisions having the force and effect of law.

ARTICLE 2

Opening of Consulates

1. A consulate may be established only through agreement between the sending and receiving States.

2. The determination of the seat of the consulate, its classification, and its consular district, as well as any changes pertaining thereto, shall be through agreement between the sending and receiving States.

ARTICLE 3

Appointment of the Head of a Consulate

1. The sending State shall forward to the receiving State through diplomatic channels a written notification of the appointment of the head of the consulate. This notification shall contain the full name, nationality, sex and rank of the head of the consulate, a brief biography, the date on which he will begin to exercise his functions, the classification and seat of the consulate, and the consular district.

2. Upon receiving notification of the appointment of the head of the consulate, the receiving State shall, if there is no objection, confirm it in writing without delay. The head of the consulate may enter upon the performance of his functions only after the receiving State has provided such confirmation.

3. The receiving State may permit the head of a consulate to exercise his functions on a provisional basis prior to his confirmation by the receiving State.

4. The receiving State shall, immediately after granting recognition, including provisional recognition, take all measures necessary to enable the head of the consulate to exercise his functions and to enjoy the rights, facilities, privileges and immunities granted under this Convention and under the law of the receiving State.

5. If for any reason the head of a consulate is unable to exercise his functions, or if the position of the head of consulate is vacant, the sending State may place its consulate under the temporary charge of a consular officer of the same or of another consulate in the receiving State or a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State. The sending State shall notify the receiving State in advance of the full name of the person appointed as acting head of a consulate.

6. A person appointed as acting head of a consulate shall enjoy the same rights, facilities, privileges and immunities enjoyed by a head of a consulate under this Convention.

7. Entrusting a member of the diplomatic staff of the diplomatic mission of the sending State with the functions of head of a consulate does not limit the privileges and immunities to which such person is entitled by virtue of diplomatic status, subject to the provisions of Article 33, paragraph 4 of this Convention.

ARTICLE 4

Appointment of Members of a Consulate

1. The sending State may staff its consulate with the number of members of a consulate it considers necessary. The receiving State may, however, require that the number of such members of a consulate be kept within the limits which it considers to be reasonable, having regard to existing circumstances and conditions in the consular district and the needs of a particular consulate.

2. Consular officers shall be nationals of the sending State only, and shall not be permanent residents of the receiving State.

3. The sending State shall communicate in advance, in writing, to the receiving State the full name, functions and class of each consular officer other than the head of the consulate, his arrival, final departure or termination of functions, as well as all other changes affecting the person's status while assigned to the consulate.

4. The sending State shall also notify the receiving State in writing of:

(a) the designation of all consular employees, their full name, nationality and functions, their arrival, their final departure or termination of their functions, as well as other changes affecting their status while assigned to the consulate;

(b) the arrival and final departure of members of the family of a member of a consulate and when any such individual becomes or ceases to be a member of the family;

(c) the employment or dismissal of a consular employee who is a national or permanent resident of the receiving State.

ARTICLE 5

Performance of Consular Functions
by a Diplomatic Mission

1. The provisions of this Convention relating to consular functions, rights, facilities, privileges and immunities shall apply in the case of consular functions being performed by a diplomatic mission.

2. The names of the members of the diplomatic mission entrusted with the performance of consular functions shall be communicated to the receiving State.

3. The members of the diplomatic mission referred to in paragraph 2 of this Article shall continue to enjoy the privileges and immunities granted them by virtue of their diplomatic status, subject to the requirements of Article 33, paragraph 4, of this Convention.

ARTICLE 6

Terminating Functions of
Members of a Consulate

1. The receiving State may at any time, and without having to explain its decision, notify the sending State through diplomatic channels that the head of a consulate is persona non grata or that any other member of a consulate is unacceptable. In such a case, the sending State shall recall such person or terminate his functions in the consulate.

2. If the sending State refuses or fails within a reasonable time to carry out the obligation contained in paragraph 1 of this Article, the receiving State may either withdraw recognition from the person concerned or refuse to consider him as a member of the consulate.

3. The functions of a member of a consulate shall come to an end, among other things, upon the:

(a) notification by the sending State to the receiving State that his functions have come to an end;

(b) withdrawal by the receiving State of recognition; or

(c) notification by the receiving State to the sending State that the receiving State has ceased to consider the person as a member of the consulate.

ARTICLE 7

Facilities for the Operation of a Consulate and Protection of Consular Officers

1. The receiving State shall take all necessary steps for the establishment of the proper conditions for the normal operation of a consulate and shall accord full facilities for the performance of the functions of the consulate.

2. The receiving State shall afford appropriate protection to consular officers to prevent any attack upon their person, freedom or dignity and further shall take all measures necessary to ensure that consular officers are able to perform their functions and enjoy the rights, facilities, privileges and immunities provided them under this Convention.

ARTICLE 8

Acquisition of Consular Premises and Residences

1. The sending State or its representative shall be entitled to purchase, lease or acquire in any other way, land, consular premises and residences as appropriate for consular purposes, except residences for members of a consulate who are nationals or permanent residents of the receiving State, and to construct or improve buildings for such purposes.

2. In exercising the rights provided under paragraph 1 of this Article, the sending State shall comply with the law of the receiving State, including the law relating to land, construction, zoning and town planning.

3. The receiving State shall, in conformity with its law, facilitate a consulate of the sending State in the acquisition of suitable consular premises. When necessary, the receiving State shall assist the sending State in the acquisition of residences for members of a consulate.

ARTICLE 9

Use of the National Flag and Emblems

1. The sending State shall be entitled to display the national emblem and the designation of the consulate on the consular premises in the languages of the sending and of the receiving States.

2. The sending State shall be entitled to fly the flag of the sending State on the consular premises and on the residence of the head of the consulate, as well as on the means of transport of the head of the consulate used in the performance of his official duties.

3. In exercising the rights provided by this Article, the sending State shall observe the law and customs of the receiving State.

ARTICLE 10

Inviolability of Premises and Residences

1. The consular premises shall be inviolable. The authorities of the receiving State may not enter the consular premises without the consent of the head of the consulate or of the head of the diplomatic mission of the sending State or a person designated by one of those persons.

2. The receiving State is under a special duty to take all steps necessary to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consulate or impairment of its dignity.

3. The provisions of paragraph 1 of this Article shall apply likewise to the residences of consular officers.

ARTICLE 11

Inviolability of Archives

The consular archives shall be inviolable at all times and wherever they may be. Documents and objects of an unofficial character shall not be stored in the consular archives.

ARTICLE 12

Freedom of Communications

1. A consulate shall be entitled to exchange communications with its government, with diplomatic missions of the sending State and with other consulates of the sending State, wherever situated. For this purpose, the consulate may employ all ordinary means of communication, including diplomatic and consular couriers, diplomatic and consular bags and codes and ciphers. The consulate may install and use a wireless transmitter only with the prior consent of the receiving State.

2. The official correspondence of a consulate, regardless of the means of communication employed, as well as sealed consular bags and other containers, provided they bear visible external marks of their official character, shall be inviolable. They may contain nothing other than official correspondence and articles intended exclusively for official use.

3. The authorities of the receiving State shall neither open nor detain the official correspondence of a consulate, including consular bags and other containers, as described in paragraph 2 of this Article.

4. The consular couriers of the sending State shall enjoy in the territory of the receiving State the same rights, privileges, facilities and immunities enjoyed by diplomatic couriers of the sending State.

5. If a master of a vessel or captain of a civil aircraft of the sending State is charged with an official consular bag, the master or captain shall be provided with an official document showing the number of containers forming the consular bag entrusted to him; he shall not, however, be considered to be a consular courier. By arrangements with the appropriate authorities of the receiving State, and in compliance with the safety regulations of the receiving State, the sending State may send a member of the consulate to take possession of the consular bag directly and freely from the master of the vessel or captain of the aircraft or to deliver such bag to him.

ARTICLE 13

Immunity of Members of a Consulate from the Jurisdiction of the Receiving State

1. Members of a consulate and their family members shall be immune from the criminal jurisdiction of the receiving State.

2. Members of a consulate and their family members shall be immune from the civil and administrative jurisdiction of the receiving State respecting any act performed by them in the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not apply to civil procedures:

(a) resulting from contracts that were not concluded by a member of a consulate on behalf of the sending State;

(b) relating to succession in which a member of a consulate was involved as executor, administrator, heir or legatee in a private capacity;

(c) concerning a claim by a third party for damage caused by a vessel, vehicle or aircraft;

(d) concerning private immovable property in the jurisdiction of the receiving State, unless the member of a consulate is holding it on behalf of the sending State for the purposes of the consulate;

(e) relating to any private professional or commercial activities engaged in by a member of a consulate in the receiving State outside of his official functions.

4. No measures of execution shall be taken against any of the persons mentioned in this Article, except in the cases under paragraph 3(d) of this Article, and then under the condition that these measures shall not infringe upon the inviolability of their person or residence.

5. Members of a consulate and their family members may be called upon to attend as witnesses in the course of judicial or administrative proceedings. In the event of the refusal of a consular officer or a member of the officer's family to give evidence, no coercive measure or penalty may be applied to such person. Consular employees and members of their families may not decline to give evidence except with respect to matters mentioned in paragraph 6 of this Article.

6. Members of a consulate are under no obligation to give evidence concerning matters relating to the exercise of their official functions or to produce official correspondence or documents. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

7. In taking testimony of members of a consulate, the authorities of the receiving State shall take all appropriate measures to avoid hindering the performance of their official consular duties. Upon the request of the head of a consulate, such testimony may, when possible, be given orally or in writing at the consulate or at the residence of the person concerned.

ARTICLE 14

Waiver of Immunity

1. The sending State may waive the immunity from jurisdiction of members of a consulate and of members of their families provided in Article 13 of this Convention. Except as provided in paragraph 2 of this Article, such waiver shall always be express and in writing.

2. In the event a member of a consulate or a member of his family initiates legal proceedings, with respect to which he would enjoy immunity from jurisdiction under this Convention, no immunity may be invoked with regard to any counterclaim directly related to the principal claim.

3. Waiver of immunity from jurisdiction with respect to civil proceedings shall not be held to imply waiver of immunity with respect to the execution of judgment, for which a separate waiver shall be necessary.

ARTICLE 15

Exemption from Services and Obligations

Consular officers and consular employees and members of their families who are not nationals of the receiving State and who are not aliens lawfully admitted for permanent residence in the receiving State shall be exempt in the receiving State from obligations and services of a military nature, from any kind of compulsory services, and from any contributions that may be due in lieu thereof. They shall likewise be exempt from obligations relating to the registration of aliens, from obtaining permission to reside, and from compliance with other similar obligations applicable to aliens.

ARTICLE 16

Exemption of Real and Movable Property from Taxation

1. The sending State shall be exempt from all dues and taxes and similar charges of any kind in the receiving State, for which it otherwise would be liable, with respect to:

(a) the consular premises and residences of members of a consulate referred to in Article 8 of this Convention;

(b) transactions or documents relating to such immovable property.

2. The sending State shall be exempt from all dues and taxes and similar charges of any kind on movable property which is owned, held or leased or otherwise possessed by it and which is used exclusively for consular purposes, as well as dues and taxes in connection with the acquisition, possession or maintenance of such property.

3. The provisions of subparagraph 1(a) of this Article shall not apply to payment for specific services rendered.

4. The exemptions accorded by this Article shall not apply to such dues and taxes if under the law of the receiving State they are payable by a person contracting with the sending State or with a person acting on behalf of the sending State.

5. The provisions of this Article also apply to all immovable property used for the official purposes of the diplomatic mission of the sending State, including residences of diplomatic mission personnel.

ARTICLE 17

Exemption of Members of a Consulate from Taxation

1. Except as provided in paragraph 2 of this Article, a member of a consulate and members of his family shall be exempt from payment of all dues and taxes and similar charges of any kind.

2. The exemption provided by paragraph 1 of this Article shall not apply with respect to:

(a) indirect taxes of a kind normally included in the price of goods and services;

(b) dues and taxes imposed with respect to private immovable property located in the territory of the receiving State, unless an exemption is provided by Article 16 of this Convention;

(c) estate, succession and inheritance taxes and taxes on the transfer of property rights imposed by the receiving State, except as provided in paragraph 3 of this Article;

(d) dues and taxes on private income earned in the receiving State;

(e) charges for specific services rendered;

(f) dues and taxes on transactions or on documents relating to transactions, including fees of any kind collected by reason of such transactions, except for fees and charges exemption from which is provided in Article 16 of this Convention.

3. If a member of a consulate or a member of his family dies, no estate, succession or inheritance tax or any other tax or charge on the transfer of movable property at death shall be imposed by the receiving State with respect to that property, provided that the presence of the property was due solely to the presence of the deceased in the receiving State in the capacity of a member of a consulate or a member of his family.

ARTICLE 18

Exemptions from Customs Duties and Inspection

1. All articles, including motor vehicles, for the official use of a consulate, shall, in conformity with the law of the receiving State, be exempt from customs duties and other dues and taxes of any kind imposed upon or by reason of importation or exportation.

2. Consular officers and members of their families shall be exempt from customs duties and other charges imposed upon or by reason of importation or exportation of articles intended for their own personal use, including articles for the equipment of their households.

3. Consular employees and members of their families shall be exempt from customs duties and other charges imposed upon or by reason of the importation or exportation of articles for their own personal use, including articles for the equipment of their households, imported at time of first arrival at a consulate.

4. Articles designed for personal use shall not exceed the quantities required for direct use by the person accorded an exemption by this Article.

5. Personal baggage of consular officers and members of their families shall be exempt from customs inspection. It may be inspected only in cases where there is serious reason to believe that it contains articles other than those mentioned in paragraph 2 of this Article, or articles the importation or exportation of which is prohibited by the law of the receiving State or articles which are subject to the law of quarantine. Such inspection must be undertaken in the presence of the consular officer concerned or member of his family or his representative.

ARTICLE 19

Immunity from Requisition

Consular premises as well as the official means of transport of the consulate are not liable to any form of requisition. If for the needs of the national defense or other public purposes expropriation of consular premises, residences or means of transport becomes necessary, all possible measures must be taken by the receiving State to avoid interference with the performance of consular functions and promptly to pay appropriate and effective compensation to the sending State.

ARTICLE 20

Freedom of Movement

Subject to the law of the receiving State concerning zones, entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure freedom of movement and travel in its territory to members of a consulate and members of their families.

ARTICLE 21

Exclusion from the Enjoyment of Rights, Facilities, Privileges and Immunities

Members of a consulate and members of their families who are either nationals or permanent residents of the receiving State shall not enjoy the rights, facilities, privileges and immunities provided by this Convention, except immunity from the obligation to give evidence concerning matters relating to the exercise of their official functions as provided in paragraph 6 of Article 13 of this Convention

ARTICLE 22

Functions of Consular Officers

1. The functions of a consular officer consist of:
   (a) protecting the rights and interests of the sending State and of its nationals, including juridical persons;
   (b) rendering assistance to and cooperating with nationals of the sending State, including juridical persons;

(c) contributing to the development of economic, commercial, cultural, scientific and tourist relations between the sending and the receiving States;

(d) promoting in various ways the development of friendly relations between the sending and the receiving States;

(e) ascertaining by all lawful means conditions and developments in the political, commercial, economic, cultural, educational and scientific-technological life of the receiving State, and reporting thereon to the government of the sending State.

2. A consular officer shall, if authorized by the sending State, be entitled to carry out the functions described in this Convention, as well as other consular functions which are not prohibited by the law of the receiving State or to which the receiving State does not object.

ARTICLE 23

Execution of Consular Functions

1. A consular officer shall be entitled to execute his functions only within the consular district. A consular officer may execute his functions outside the limits of the consular district only with the advance consent of the receiving State given separately in each instance.

2. In executing his functions, a consular officer may approach orally or in writing:

(a) the competent local authorities in the consular district;

(b) the competent central authorities of the receiving State, if and to the extent allowed by the law and customs of the receiving State.

3. With the advance approval of the receiving State, the sending State may perform consular functions in the receiving State on behalf of a third State.

4. A consulate may levy in the territory of the receiving State consular fees authorized under the law of the sending State for consular acts. Any such sums levied shall be exempt from all dues and taxes in the receiving State.

ARTICLE 24

Representation before the Authorities of the Receiving State

1. A consular officer shall be entitled, in accordance with the law of the receiving State, to take appropriate measures for the protection of the rights and interests of nationals of the sending State, including juridical persons, before the courts and other authorities of the receiving State, where, because they are not present in the receiving State or for any other reason, these nationals are not in a position to undertake timely defense of their rights and interests.

2. The measures referred to in paragraph 1 of this Article shall cease as soon as the national appoints his own representative or the national assumes the defense of his rights and interests.

3. Nothing in this Article, however, shall be construed to authorize a consular officer to act as an attorney-at-law.

ARTICLE 25

Functions with Regard to Travel Documents

A consular officer shall be entitled to:

1. issue to nationals of the sending State passports or similar travel documents, as well as make amendments in them;

2. issue visas or other appropriate documents to persons wishing to travel to or through the sending State.

ARTICLE 26

Functions Regarding Citizenship and Civil Status

A consular officer shall be entitled to:

1. register nationals of the sending State;

2. accept applications and issue or deliver documents on matters of citizenship;

3. accept applications or declarations relating to civil status from nationals of the sending State;

4. register births and deaths of nationals of the sending State.

ARTICLE 27

Notarial Functions

A consular officer shall be entitled to:

1. receive and witness statements made under oath or affirmation, and, in accordance with the law of the receiving State, to receive the testimony of any person for use in connection with a legal proceeding in the sending State;

2. draw up or authenticate any act or document, as well as copies or extracts thereof, of a national of the sending State, including a juridical person, for use outside the receiving State or of any person for use in the sending State, or perform other notarial functions;

3. authenticate documents issued by competent authorities of the receiving State for use in the sending State.

ARTICLE 28

Legal Force of Documents Prepared by a Consular Officer

The acts and documents certified or legalized by a consular officer of the sending State, as well as copies, extracts and translations of such acts and documents certified by him, shall be receivable in evidence in the receiving State as official or officially certified acts, documents, copies, translations or extracts, and shall have in the receiving State the same validity and effect as the documents certified or legalized by the competent authorities of the receiving State, provided they have been drawn and executed in conformity with the law of the receiving State and with the law of the country in which they are to be used.

ARTICLE 29

Serving Judicial and Other Legal Documents

A consular officer shall be entitled to serve judicial and other legal documents in accordance with international agreements in force between the sending and receiving States or, in the absence of such agreements, to the extent permitted by the law of the receiving State.

ARTICLE 30

Notification on the Establishment of Guardianship or Trusteeship

1. The competent authorities of the receiving State shall notify the consulate in writing of instances in which it is necessary to establish a guardianship or trusteeship over a national of the sending State who is not of age or lacks full capacity to act on his own behalf, or over property of a national of the sending State when for whatever reason such property cannot be administered by the national of the sending State.

2. A consular officer of the sending State may, on matters mentioned in paragraph 1 of this Article, contact the appropriate authorities of the receiving State, and may propose appropriate persons to be appointed to act as guardians or trustees, in accordance with the law of the receiving State.

ARTICLE 31

Notification Regarding the Death of a National of the Sending State

Whenever the competent authorities of the receiving State learn that a national of the sending State has died in the receiving State, they shall immediately notify the appropriate consular officer of the sending State and, upon his request, send him a copy of the death certificate or other documentation confirming the death.

ARTICLE 32

Notification Regarding the Estate
of a Deceased National

1. Whenever the appropriate local authorities of the receiving State learn of an estate resulting from the death in the receiving State of a national of the sending State who leaves in the receiving State no known heir or testamentary executor, they shall as promptly as possible so inform a consular officer of the sending State.

2. Whenever the appropriate local authorities of the receiving State learn of an estate of a decedent, regardless of nationality, who has left in the receiving State an estate in which a national of the sending State residing outside the receiving State may have an interest under the will of the decedent or otherwise in accordance with the law of the receiving State, they shall as promptly as possible so inform a consular officer of the sending State.

ARTICLE 33

Functions Relating to Estates

1. A consular officer shall be entitled to take appropriate measures with respect to the protection and conservation of the property of a deceased national of the sending State left in the receiving State. In this connection he may approach the competent authorities of the receiving State with a view towards protecting the interests of a sending State national, not a permanent resident of the receiving State, unless such a national is otherwise represented. He may also request the competent authorities of the receiving State to permit him to be present at the inventorying and sealing and, in general, to take an interest in the proceedings.

2. A consular officer shall be entitled to safeguard the interests of a national of the sending State who has, or claims to have, a right to property left in the receiving State by a deceased person, irrespective of the latter's nationality, and if that interested national is not in the receiving State or does not have a representative there.

3. A consular officer of the sending State shall be entitled to receive for transmission to a national of the sending State who is not a permanent resident of the receiving State any money or other property in the receiving State to which such national is entitled as a consequence of the death of another person, including shares in an estate, payments made pursuant to employees' compensation law, pension and social benefits systems in general, and proceeds of insurance policies, unless the court, agency, or person making distribution directs that transmission be effected in a different manner. The court, agency, or person making distribution may require that a consular officer comply with conditions laid down with regard to:

(a) presenting a power of attorney or other authorization from such national residing outside the receiving State;

(b) furnishing reasonable evidence of the receipt of such money or other property by such national; and

(c) returning the money or other property in the event he is unable to furnish such evidence.

4. In exercising the rights provided by paragraphs 1 through 3 of this Article, the consular officer must comply with the law of the receiving State in the same manner and to the same extent as a national of the receiving State and, irrespective of the provisions of Article 13 of this Convention, shall be subject in this respect to the civil jurisdiction of the receiving State. Further, nothing in these Articles shall authorize a consular officer to act as an attorney-at-law.

ARTICLE 34

Provisional Custody of Money and Effects of a Deceased National of the Sending State

If a national of the sending State, not a permanent resident of the receiving State, dies during a temporary stay in or transit through the receiving State, and the deceased person did not leave a legal representative in the receiving State, the consular officer shall be entitled immediately to take provisional custody of the money, documents and personal effects that were in the national's possession for transfer to an heir, executor, or other person authorized to receive such property, to the extent permitted by the law of the receiving State.

ARTICLE 35

Communication with Nationals
of the Sending State

1. A consular officer shall be entitled, in his consular district, to communicate and meet with any national of the sending State, and, when necessary, to arrange for legal assistance and an interpreter. The receiving State shall in no way restrict access between a consular officer and a national of the sending State.

2. If a national of the sending State is arrested or placed under any form of detention within the consular district, the competent authorities of the receiving State shall immediately, but no later than within four days from the date of arrest or detention, notify the consulate of the sending State. If it is not possible to notify the consulate of the sending State within four days because of communications difficulties, they should try to provide notification as soon as possible. Upon the request of a consular officer, he shall be informed of the reasons for which said national has been arrested or detained in any manner.

3. The competent authorities of the receiving State shall immediately inform the national of the sending State of the rights accorded to him by this Article to communicate with a consular officer.

4. A consular officer shall be entitled to visit a national of the sending State who has been arrested or placed under any form of detention, including such national who is in prison pursuant to a judgment, to converse and to exchange correspondence with him in the language of the sending State or the receiving State, and may assist in arranging for legal representation and an interpreter. These visits shall take place as soon as possible, but, at the latest, shall not be refused after two days from the date on which the competent authorities notified the consulate that said national had been placed under any form of detention. The visits may be made on a recurring basis. No longer than one month shall be allowed to pass in between visits requested by the consular officer.

5. In the case of a trial of, or other legal proceeding against, a national of the sending State in the receiving State, the appropriate authorities shall, at the request of a consular officer, inform such officer of the charges against such national. A consular officer shall be permitted to attend the trial or other legal proceedings.

6. A consular officer is entitled to provide to a national to whom the provisions of this Article apply parcels containing food, clothing, medicaments and reading and writing materials.

7. A consular officer of the sending State may request the assistance of the authorities of the receiving State in ascertaining the whereabouts of a national of the sending State. The authorities of the receiving State shall do everything possible to provide all relevant and available information.

8. The rights contained in this Article shall be exercised in accordance with the law of the receiving State. Nevertheless, such law shall be applied so as to give full effect to the purposes for which these rights are intended.

ARTICLE 36

Rendering Assistance to Vessels

1. A consular officer shall be entitled to provide any type of assistance to vessels of the sending State which are in the territorial or inland waters, ports or other anchorages of the receiving State.

2. A consular officer may board a vessel of the sending State as soon as permission has been granted the vessel to make contact with the shore. On such occasions, he may be accompanied by members of the consulate.

3. The master and members of the crew may meet and communicate with the consular officer, observing, however, the law relating to the port and the law relating to crossing the border.

4. The consular officer may request the cooperation of the authorities of the receiving State in carrying out his functions with regard to vessels of the sending State and with regard to the master, members of the crew, passengers and cargo.

ARTICLE 37

Rendering Assistance to Master and Crew

1. In accordance with the law of the receiving State, the consular officer shall be entitled:

(a) to investigate any incident occurring aboard a vessel of the sending State, to question the master and any member of the crew with reference to these incidents, to inspect the vessel's papers, to receive information in connection with the voyage and destination of the vessel and also to render assistance in connection with the entry, stay and departure of a vessel of the sending State;

(b) to settle disputes between the master and a crew member, including disputes concerning wages and employment contracts, to the extent that this action is authorized by the law of the sending State;

(c) to take steps connected with the signing on and the discharge of the master and of any crew member;

(d) to take steps for hospitalization or repatriation of the master or a member of the crew of the vessel;

(e) to receive, draw up or certify any declaration or other document provided for by the law of the sending State in regard to the vessel of the sending State or its cargo.

2. The consular officer may, if permitted by the law of the receiving State, appear together with the master or a crew member before the courts or other authorities of the receiving State in order to render them any assistance.

ARTICLE 38

Protection of Interests in Case of Investigations

1. When the courts or other competent authorities of the receiving State intend to take compulsory actions or to start an official investigation aboard a vessel of the sending State which is in the internal or territorial waters of the receiving State, or on the shore with regard to the master or member of the crew, those authorities must notify the appropriate consular officer of the sending State. If, because of the urgency of the matter, it has not been possible to inform the consular officer before initiation of the actions involved, and the consular officer or his representative has not been present when the actions were carried out, the competent authorities of the receiving State shall promptly provide him with the full relevant particulars of the actions taken.

2. Except at the request of the vessel's master or the consular officer, the judicial or other competent authorities of the receiving State shall not interfere in the internal affairs of the vessel on questions of relations between the members of the crew, labor relations, discipline and other activities of an internal character, when the peace and safety of the receiving State are not violated.

3. The provisions of paragraph 1 of this Article shall not be applied, however, to ordinary customs, passport and sanitary controls, or, in accordance with treaties in force between the two States, to the saving of human life at sea, prevention of pollution of the sea, or to other activities undertaken at the request of, or with the consent of, the master of the vessel.

ARTICLE 39

Assistance to Damaged Vessels

1. If a vessel of the sending State is wrecked or grounded, or suffers any other damage in the internal or territorial waters of the receiving State, the competent authorities of the receiving State shall inform the consulate as soon as possible and inform it of the measures taken for saving the passengers, the vessel, its crew and cargo.

2. A vessel which has suffered a misfortune and its cargo and provisions shall not be subject to customs duties on the territory of the receiving State unless they are delivered for use in that State.

ARTICLE 40

Functions with Regard to Aircraft

The relevant provisions of Articles 36 through 39 of this Convention shall also apply to civil aircraft on the condition that such application is not contrary to the provisions of any bilateral or multilateral agreement in force between the two States.

ARTICLE 41

Observing the Law of the Receiving State

1. All persons enjoying privileges and immunities under this Convention are obliged, without prejudice to their privileges and immunities, to observe the law of the receiving State, including traffic regulations, and to respect the customs of the receiving State, and may not interfere in the internal affairs of the receiving State.

2. Consular officers and consular employees who are nationals of the sending State may not carry on any profession or undertake any activity for personal profit on the territory of the receiving State other than their official duties.

3. All means of transportation of the consulate or of members of a consulate and their families shall be adequately insured against civil actions by third parties.

ARTICLE 42

Entry into Force and Renunciation

1. The present Convention shall be subject to ratification. The exchange of instruments of ratification shall take place as soon as possible at Beijing.

2. The present Convention shall enter into force after the expiration of thirty days following the date of the exchange of instruments of ratification.[1]

3. The present Convention shall remain in force until the expiration of six months from the date on which one of the Contracting Parties gives to the other Contracting Party written notification of its intention to terminate the Convention.

[1] Feb. 19, 1982.

DONE at Washington this seventeenth day of September, 1980, in duplicate in the English and Chinese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Jimmy Carter [1]

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA:

[2]

[1] Jimmy Carter.
[2] Bo Yibo.

包括交通规章，尊重接受国的风俗习惯，并不得干涉接受国内政。

二、凡系派遣国国民的领事官员和领馆工作人员，除了执行公务外，不得在接受国境内从事任何职业或为个人谋利而进行任何活动。

三、领事馆或者领馆成员及其家庭成员的一切交通工具均应有防备第三方面民事诉讼的充分的保险。

第四十二条

生效和终止

一、本条约须经批准，批准书应尽速在北京互换。

二、本条约自互换批准书之日起第三十一天开始生效。

三、除非缔约一方在六个月前以书面通知另一方要求终止本条约，则本条约应继续有效。

本条约于一九八〇年九月十七日在华盛顿签订，共两份，每份都用英文和中文写成，两种文本具有同等效力。

美利坚合众国代表　　中华人民共和国代表

第三十九条

协助受损伤的船只

一、如果派遣国的船只在接受国的内水或领海上失事、搁浅或遭受任何其他损伤，接受国主管当局应尽快通知领事馆，并通知为抢救旅客、船只、船员和货物所采取的措施。

二、失事船只及其货物和食物在接受国境内不需交纳关税，除非在接受国内交付使用。

第四十条

关于飞机的职务

本条约第三十六条到三十九条的有关规定也适用于民用飞机，但此种适用不得违反两国间任何有效的双边或多边的协定的规定。

第四十一条

遵守接受国法律

一、所有享受本条约规定的特权和豁免的人都有义务，在不损害其特权和豁免的情况下，遵守接受国的法律

一起出席接受国法庭或到其他当局，以便向他们提供协助。

第三十八条

进行调查时的利益保护

一、接受国的法院或其他主管当局打算对在其内水或领海的派遣国某一船上或上岸的船长和船员采取强制行动或进行官方调查时，必须通知派遣国有关的领事官员。如果由于情况紧急，在采取行动前无法通知领事官员，而采取行动时又无领事官员或其代表在场，则接受国的主管当局应迅速向领事官员提供已采取行动的全部有关情况。

二、除非船长或领事官员提出要求，接受国的司法当局或其他主管当局在接受国的和平与安全不受破坏的情况下，不应在下述问题上干涉船只的内部事务：船员间的关系、劳资关系、纪律和其他属于内部性质的活动。

三、但本条第一款的规定不适用于普通的海关、护照和卫生管制，或按照两国间有效的条约，不适用于海上救生、防止海水污染或由船长要求或得到船长同意而进行的其他活动。

四、领事官员得向接受国当局要求合作，以执行其有关派遣国船只的职务和有关船长、船员、乘客和运货的职务。

第三十七条

对船长和船员提供协助

一、领事官员遵照接受国的法律有权：

(一)调查派遣国船上发生的任何事件，就事件向船长和任何船员提出询问，检查船只的文件，接受关于船只航程和目的地的情报，并对派遣国船只的入境、停留和离境提供协助；

(二)在派遣国法律许可的范围内，解决船长和船员之间的争端，包括有关工资和就业合同的争端；

(三)采取与船长和任何船员的签约受雇和解雇有关的步骤；

(四)采取让船长或船员进医院治疗或将其遣返本国有关的步骤；

(五)接受、起草或认证派遣国法律所规定的与派遣国船只或其运货有关的报表或其他文件。

二、如果接受国法律许可，领事官员得同船长或船员

之间的间隔不应超过一个月。

五、倘遇派遣国国民在接受国受审判或其他法律诉讼，有关当局经领事官员请求应告知对该国民提出的指控，并应允许一位领事官员旁听审判或其他法律诉讼。

六、对于适用本条规定的国民，领事官员有权供给装有食品、衣服、医药用品、读物和书写文具的包裹。

七、领事官员得请接受国当局协助查明派遣国国民的下落。接受国当局应尽可能提供所掌握的一切有关情况。

八、本条所载各项权利的行使，应遵照接受国的法律。但是，此项法律的适用，务使本条所规定的这些权利的目的，得以充分实现。

第三十六条

对船只提供协助

一、领事官员有权对正在接受国领海、内水、港口或其他停泊处的派遣国船只提供任何种类的协助。

二、在派遣国船只获准靠岸后，领事官员即可登船，并可由领馆成员陪同。

三、船长和船员得会晤领事官员并与之交谈，但须遵守有关港口的法律和有关过境的法律。

第三十五条

与派遣国国民联系

一、领事官员有权在其领事区内与派遣国的国民联系和会见。必要时，可为其安排法律协助和译员。接受国不应以任何方式限制领事官员和派遣国国民的会见。

二、领事区内遇有派遣国国民被逮捕或受到任何形式的拘禁，接受国主管当局应立即通知，最迟于该国民被逮捕或受拘禁之日起的四天内通知派遣国领事馆。如果由于通讯设备方面的困难在四天内无法通知派遣国领事馆，也应设法尽快通知。应领事官员要求，应告知该国民被逮捕或受到何种形式拘禁的理由。

三、接受国主管当局应立即告知该派遣国国民本条所给予的同领事官员进行联系的权利。

四、领事官员有权探视被逮捕或受到任何形式拘禁的派遣国国民，包括根据判决处在狱中的此等国民，以派遣国或接受国语言、文字与之谈话和通信，并可协助安排法律代表和译员。探视应尽快进行，最迟于主管当局通知领事馆该国民受到任何形式拘禁之日起的二天后，不应拒绝探视。探视得按重复方式进行。经领事官员请求，两次探视

庭、机关或个人决定用其他方法转交。进行分配的法庭、机关或个人得要求领事官员遵守有关下列事项的条件：

(一)出示居住在接受国外的该国民的委托书或其他授权证书；

(二)提供该国民收到这笔钱或其他财产的合理证明；

(三)不能提供此项证明时，则退还这笔钱或其他财产。

四、领事官员在行使本条第一至三款规定的权利时必须遵守接受国的法律，其方式和范围与接受国的国民相同，虽有本条约第十三条的规定，领事官员在这方面应受接受国的民事管辖。此外，这些条文并不授权领事官员起律师的作用。

第三十四条

临时保管派遣国死亡国民的钱和物

如果非永久居住在接受国的派遣国国民在接受国临时逗留或过境时死亡，而其在接受国内又无法律代表时，在接受国法律允许的范围内，领事官员有权立即临时保管该国民所有的钱、文件和个人用物，以便转交给该国民的继承人、遗嘱执行人或其他授权接受这些财物的人。

法律，居住在接受国之外的派遣国国民在其中可能有利益时，应尽速将此事通知派遣国的领事官员。

第三十三条

关于遗产的职务

一、领事官员有权为保护和保存派遣国死亡的国民遗留在接受国内的财产而采取适当措施。为此，领事官员得向接受国主管当局进行联系，以便保护非在接受国永久居住的派遣国国民的利益，除非另有人代表该国民。领事官员并可请求接受国主管当局准其在清点和封存时在场，并一般地关注此事的进行。

二、领事官员有权维护下述派遣国国民的利益，该国民对某一死者，不论其属于何国国籍，遗留在接受国的财产享有或声称享有权利，且该有权利关系的国民不在接受国境内或没有代表在接受国境内。

三、派遣国领事官员有权接受在接受国国内的任何金钱或其他财产以便转交给非永久居住在接受国的派遣国国民，该项金钱或财产系该国民由于另一人之死亡而有权取得者，包括某项财产的股份、按雇员补偿法应付款项、年金和一般的社会福利金以及保险收入，除非进行分配的法

成年或无充分行为能力的国民，或对派遣国某国民因某种原因不能管理的财产，有必要建立监护关系或受托关系的情况。

二、就本条第一款所述事项，派遣国领事官员得与接受国有关当局联系，并可提议按接受国法律指定适当的人为监护人或受托人。

第三十一条

关于派遣国国民死亡的通知

接受国主管当局获悉派遣国某国民在接受国死亡时，应立即通知派遣国有关领事官员，并应其请求送给一份死亡证书或其他证实死亡文书的副本。

第三十二条

关于死亡国民财产的通知

一、接受国有关地方当局获悉由于派遣国国民在接受国死亡而遗有财产但在接受国未留下具名的继承人或又无遗嘱执行人时，应尽速将此事通知派遣国的领事官员。

二、接受国有关地方当局获悉死者在接受国遗有财产不论该人属于何国国籍，根据死者遗嘱或按照接受国的

的文件。

第二十八条

领事官员出具文件的法律效力

派遣国领事官员所证明或认证的书契和文件，及其所证明的此类书契和文件的副本、节录和译文，在接受国应被接受作为官方或官方证明了的书契、文件、副本、译文或节录，并应在接受国国内具有与接受国主管当局所证明或认证的文件一样的有效性，只要它们的写成和制订是符合接受国的法律和文件使用国的法律。

第二十九条

送达司法文件和其他法律文件

领事官员有权按照派遣国和接受国之间的现行国际协定，如没有这种协定则在接受国法律允许的范围内，送达司法文件和其他法律文件。

第三十条

通知建立监护关系或受托关系

一、接受国主管当局应书面通知领事馆，对派遣国未

或其他适当的证件。

第二十六条

有关公民资格和民事地位的职务

领事官员有权：

一、登记派遣国国民。

二、就公民资格问题接受申请和发出或递交证件。

三、接受派遣国国民关于民事地位的申请或报告。

四、登记派遣国国民的出生和死亡。

第二十七条

公 证 职 务

领事官员有权：

一、接受和目证在宣誓或确认下所作的声明，并按接受国的法律接受任何人为在派遣国国内的法律诉讼中使用的证词。

二、出具或认证派遣国国民包括法人为在接受国国外使用的或任何人为在派遣国国内使用的任何书契或文件以及其副本或节录，或履行其他公证职务。

三、认证接受国主管当局为在派遣国国内使用而颁发

捐税。

第二十四条

向接受国当局交涉

一、当派遣国国民包括法人由于不在接受国境内或其他任何原因无法及时保护自己的权利和利益的时候，领事官员遵照接受国的法律有权采取适当措施，在接受国的法庭上和其他当局面前，保护此类国民，包括法人的权利和利益。

二、一旦该国民指定了自己的代表，或者自己担当起保护自己权利和利益的任务，本条第一款所提到的措施即应停止。

三、但是本条不能被解释为授权领事官员作为律师。

第二十五条

有关旅行证件的职务

领事官员有权：

一、向派遣国国民颁发护照或类似旅行证件，以及予以修改。

二、向希望到派遣国或途经派遣国旅行的人颁发签证

济、文化、教育和科学技术的情况和发展，并就此向派遣国政府汇报。

二、领事官员如经派遣国授权，有权执行本条约所述的职务和不为接受国的法律所禁止，或不为接受国反对的其他领事职务。

第二十三条

领事职务的执行

一、领事官员只有在其领事区内才有权执行其职务。只有在每次得到接受国事先同意的情况下，领事官员才可在其领事区以外执行其职务。

二、领事官员在执行其职务时，得用口头或书面与以下当局接洽：

(一)在其领事区内的地方主管当局；

(二)如果接受国的法律和习惯允许，并在其允许的范围内，与接受国的中央主管当局接洽。

三、在得到接受国事先同意的情况下，派遣国得代表第三国在接受国执行领事职务。

四、领事馆得在接受国境内收取派遣国法律为领事业务所规定的领事费。所收的此种费款在接受国应免缴任何

法律的前提下，接受国应保证领馆成员及其家庭成员在其境内的行动自由和旅行自由。

第二十一条

不应享受权利、便利、特权和豁免

领馆成员及其家庭成员系接受国国民或在接受国永久居住者，不应享有本条约规定的权利、便利、特权和豁免，除本条约第十三条第六款所规定的免除在执行公务有关的事项上作证的义务以外。

第二十二条

领事官员的职务

一、领事官员的职务包括：

(一)保护派遣国及其国民包括法人的权利和利益；

(二)对派遣国国民包括法人提供协助和合作；

(三)为发展派遣国和接受国之间的经济、商务、文化、科学和旅游关系作出贡献；

(四)以各种方式促进派遣国和接受国友好关系的发展；

(五)用一切合法的手段调查接受国的政治、商务、经

口而征收的其他捐税。

四、个人使用的物品不得超过根据本条享受免税的人直接使用所需的数量。

五、领事官员及其家庭成员的个人行李应免予海关查验。只有在下列情况下才可查验，即有重大理由认为行李中装有不属本条第二款所述物品，或为接受国法律禁止进出口的物品，或为检疫法所管制的物品。此项检查必须在有关领事官员或其家庭成员或其代表在场时进行。

第十九条
免予征用

领馆馆舍和领馆公用交通工具不应受任何形式的征用。如果为了国防或其他公共用途而必须征用领馆馆舍、住宅或交通工具时，接受国应采取一切可能的措施避免妨碍领事职务的执行，并及时向派遣国付出适当的和有效的补偿。

第二十条
行动自由

在遵守接受国为国家安全而禁止或限制进入的地区的

(三)除本条第三款的规定外，接受国所课的财产税、继承税、遗产税和过户税；

(四)在接受国内获致的私人收入的捐税；

(五)为供给特定服务所收取的费用；

(六)对交易或有关交易的契据的捐税，包括因这种交易而收的任何费用。但本条约第十六条规定的免税不在此限。

三、如果领馆成员或其家庭成员死亡，接受国不应课征其财产税、继承税、遗产税，或对其死后动产过户的其他捐税，但以该财产的存在纯系由于死者是作为领馆成员或其家庭成员而在接受国境内所致者为限。

第十八条

关税和海关检查的免除

一、领馆的公务用品包括公用机动车辆，均应依照接受国的法律免征关税和任何因进出口而征收的其他捐税。

二、领事官员及其家庭成员个人使用的物品，包括家庭设备的物品，应免征关税和因进出口而征收的其他捐税。

三、领馆工作人员及其家庭成员初到任时运入之个人使用的物品，包括家庭设备的物品，应免征关税和因进出

二、派遣国专用于领事目的而拥有的、持有的、租赁的或以其他方式占有的动产应被免除捐税或任何类似捐税，并应被免除与这些财产之获得、占有或维修有关的捐税。

三、本条第一款第一项的规定不适用于对特定服务的付款。

四、本条规定的免税不适用于按照接受国的法律，一个同派遣国或代表派遣国行事的人订立合同的人应缴纳的捐税。

五、本条规定也适用于派遣国外交机构用于公务的一切不动产，包括外交机构人员的住宅。

第十七条
领馆成员的免税

一、除本条第二款规定者外，领馆成员及其家庭成员应免纳一切捐税或任何类似的捐税。

二、本条第一款所规定的免税不适用于以下情况：

(一)通常计入在商品或劳务价格中的间接税；

(二)在接受国境内的私有不动产的捐税，但本条约第十六条规定的免税不在此限；

关之反诉援引豁免权。

三、在民事诉讼上放弃司法管辖之豁免，不得视为意味着放弃对判决执行之豁免，放弃此项豁免须单独为之。

第十五条

免除劳务和义务

领事官员、领馆工作人员及其家庭成员，凡非接受国国民，亦非依法被准许在接受国长期居住的外国人，在接受国应免除军事性质的义务和劳务，免除任何义务服役，并免除任何作为替代的捐款。他们亦应被免除外侨登记和居住许可的义务，并免除遵守其他适用于外侨的类似的义务。

第十六条

动产、不动产的免税

一、派遣国应被免除在接受国本应纳税的下列项目的一切捐税或任何类似的税收：

(一)本条约第八条所提到的领馆馆舍，领馆成员的住宅；

(二)有关这些不动产的交易或契据。

也不得损害其人身和住宅的不可侵犯性。

五、领馆成员及其家庭成员得被请在司法或行政程序中到场作证。如领事官员及其家庭成员拒绝作证，不得对其施行强制措施或处罚。除本条第六款所述事项外，领馆工作人员及其家庭成员不得拒绝作证。

六、领馆成员没有义务就其执行公务所涉事项作证，或出示官方信件或文件。领馆成员并有权拒绝作为派遣国法律的鉴定人而作证。

七、接受国当局在接受领馆成员证词时应采取一切适当措施避免妨碍其执行领事职务。应领事馆长的请求，此种证词在可能情形下得在领事馆或有关人员的住宅口头或书面提出。

第十四条
豁免的放弃

一、派遣国得放弃领馆成员及其家庭成员按本条约第十三条所规定的司法管辖豁免。除本条第二款所规定的情形外，此种放弃均须明白表示并以书面提出。

二、如某一领馆成员或其家庭成员提起法律诉讼，尽管根据本条约可享受司法豁免权，但不得对与主诉直接有

第十三条

领馆成员免受接受国司法管辖

一、领馆成员及其家庭成员免受接受国的刑事管辖。

二、领馆成员及其家庭成员执行领事职务时的作为免受接受国的民事和行政管辖。

三、惟本条第二款之规定不适用下列民事诉讼：

(一)因领馆成员并非代表派遣国订立的合同所引起的诉讼；

(二)有关领馆成员以私人身份作为遗嘱执行人，遗产管理人，继承人或受遗赠人的继承事件的诉讼；

(三)有关第三者要求赔偿船舶、车辆或飞机所造成损害的诉讼；

(四)有关处在接受国司法管辖下的私人不动产的诉讼，除非领馆成员系代表派遣国为领事馆之用而拥有该不动产者；

(五)有关领馆成员在其公务范围外在接受国进行的任何私人的、专业的或商业的活动的诉讼。

四、对本条所提到的任何人不得采取执行措施，除非属本条第三款(四)项的案件，即使对此项案件采取措施

一切普通的通讯办法，包括外交信使和领事信使、外交邮袋和领事邮袋以及密码。领事馆须得到接受国事先同意才能安装和使用无线电发报机。

二、领馆的公务函电，不论使用何种通讯方法，以及加封的领事邮袋和其他容器，只要它们附有标明官方性质的可见外部标志，均不得侵犯，但不得装有公务函电和纯为公务使用的物品以外的任何东西。

三、领馆的公务函电，包括领事邮袋和其他容器，如本条第二款所述，接受国当局不得开拆或扣留。

四、派遣国的领事信使在接受国境内享有同派遣国外交信使相同的权利、特权、便利和豁免。

五、如果派遣国的船长或民用飞机的机长受托携带官方领事邮袋，该船长或机长应持有官方文件说明他受托携带的构成领事邮袋的容器数目，但是他不被认为是领事信使。经过接受国有关当局的安排并遵守接受国的安全规章，派遣国得派领馆成员直接并自由地与该船长或机长接交领事邮袋。

第 十 条

馆舍和住宅不得侵犯

一、领馆馆舍不得侵犯。接受国当局未经领事馆长、派遣国使馆馆长，或以上两人中一人指定的人的同意，不得进入领馆馆舍。

二、接受国负有特殊义务，采取一切必要措施保护领馆馆舍免受侵入或损坏，并防止扰乱领事馆的安宁和损害领事馆的尊严。

三、本条第一款的规定也适用于领事官员的住宅。

第十一条

档案不得侵犯

领馆档案在任何时间和任何地点均不得侵犯。非官方文件和物品不应存放在领馆档案内。

第十二条

通 讯 自 由

一、领事馆有权同它的政府，以及派遣国在其他任何地方的使馆和领事馆进行通讯。为此目的，领事馆得使用

方式获得适合于领事用途的地皮、领馆馆舍和住宅，以及为领事用途进行建筑或修缮，但领馆成员是接受国国民或永久居民者，其住宅不在此限。

二、派遣国在行使本条第一款规定的权利时，应遵守接受国的法律，包括有关地皮、建筑、分区和城市规划的法律。

三、接受国应依照本国法律为派遣国领事馆获得适当的领馆馆舍提供便利。必要时，接受国应协助派遣国为其领馆成员获得住所。

第 九 条

国旗和国徽的使用

一、派遣国有权在领馆馆舍悬挂国徽和以派遣国文字和接受国文字书写的馆牌。

二、派遣国有权在领馆馆舍、领事馆长的住宅以及领事馆长执行公务时所用的交通工具上悬挂派遣国国旗。

三、在行使本条所规定的权利时，派遣国应遵守接受国的法律和习惯。

拒绝将其看作领馆成员。

三、领馆成员的职务，除其他情形外，在下列情形下应即告终止：

(一)派遣国通知接受国其职务已经终止；

(二)接受国撤销承认；

(三)接受国通知派遣国，接受国已经不再认为该员为领馆成员。

第七条

领馆工作的便利和领事官员的保护

一、接受国应采取一切必要措施为领事馆的正常工作创造适当的条件，并为领事馆职务的执行提供充分便利。

二、接受国应给予领事官员适当的保护，以防止他们的人身、自由或尊严受任何侵犯，并应采取一切必要措施保证领事官员能执行其职务和享受本条约给予的权利、便利、特权和豁免。

第八条

领馆馆舍和住宅的获得

一、派遣国或其代表，有权购置、租用或以其他任何

解雇的情况。

第 五 条

使馆执行领事职务

一、本条约关于领事职务、权利、便利、特权和豁免的各项规定也适用于由使馆执行领事职务的情况。

二、被委托执行领事职务的使馆成员的名字应通知接受国。

三、本条第二款所提及的使馆成员应继续享有他们因外交官身份而得到的特权和豁免，但受本条约第三十三条第四款的制约。

第 六 条

领馆成员职务的终止

一、接受国得在任何时候不加解释地通过外交途径通知派遣国某一领事馆长为不受欢迎的人或领馆其他成员为不可接受。遇此情况，派遣国应召回此人或终止其在领馆的职务。

二、如派遣国拒绝履行，或在合理时间内没有履行本条第一款所载的义务，接受国得撤销对有关人员的承认或

第 四 条

领馆成员的委派

一、派遣国得在其领事馆内配备它认为必要数目的领馆成员。但接受国得参照领事区的现有情形和条件以及特定领事馆的需要，要求将领馆成员的人数保持在它认为合理的限度内。

二、领事官员只能是派遣国的国民，且不得是接受国的永久居民。

三、派遣国应预先将领事馆长以外的领事官员的全名、职务、等级和他们的到达和最终离境或他们职务的终止，以及他们在领事馆任职期间发生的身份上任何其他变更，书面通知接受国。

四、派遣国也应将下列事项书面通知接受国：

(一)所有领馆工作人员的委派，他们的全名、国籍、职务和他们的到达、最终离境或他们职务的终止，以及他们在领事馆任职期间发生的身份上任何其他变更；

(二)领馆成员的家庭成员的到达和最终离境以及任何人成为领馆成员的家庭成员或不再是家庭成员的情况；

(三)接受国的国民或永久居民受雇为领馆工作人员或

异议，应不迟延地予以书面确认。领事馆长只有在接受国确认后才能开始执行职务。

三、在接受国承认前，接受国得允许领事馆长临时执行职务。

四、接受国在承认包括临时承认后，应立即采取一切必要措施使领事馆长能执行职务，并享受本条约和接受国法律所给予的权利、便利、特权和豁免。

五、如果领事馆长由于任何原因不能行使职务，或者在该领事馆长空缺的情况下，派遣国得指派同一领事馆或设于接受国的另一领事馆的一位领事官员或派遣国驻接受国使馆的一位外交人员临时代理领事馆长。派遣国事先应把指派任代理领事馆长的人的全名通知接受国。

六、被指派为代理领事馆长的人得享受同领事馆长根据本条约所享受的同样的权利、便利、特权和豁免。

七、委托派遣国使馆的一位外交人员代理领事馆长职务，并不限制此人由于其外交地位应享的特权和豁免，但受本条约第三十三条第四款的制约。

十二、“法律”：

对美利坚合众国而言，是指具有法律力量和效力的联邦、州和地方的所有法律、法令、条例和决定；

对中华人民共和国而言，是指具有法律力量和效力的国家、省、市、自治区，和地方的所有法律、法令、条例和决定。

第 二 条

领 事 馆 的 设 立

一、领事馆的设立须经派遣国和接受国双方同意。

二、领事馆的所在地、类别和领事区的确定，以及与此有关的任何变动，应由派遣国和接受国双方同意。

第 三 条

领事馆长的任命

一、派遣国应通过外交途径向接受国递交任命领事馆长的书面通知。通知中应写明领事馆长的全名、国籍、性别、官衔、简历、开始执行职务的日期，以及领事馆的类别、所在地和领事区。

二、接受国在接到任命领事馆长的书面通知后，如无

二、“领事区”指为领事馆指定的执行领事职务的区域；

三、“领事馆长”指派遣国委任领导一个领事馆的总领事、领事、副领事或领事代理人；

四、“领事官员”指派遣国委任执行领事职务的人员，包括领事馆长在内；

五、“领馆工作人员”指在领事馆内从事行政、技术或服务工作的人员；

六、“领馆成员”指领事官员和领馆工作人员；

七、“家庭成员”指领馆成员的配偶、未成年子女及其他构成同一户口之亲属；

八、“领馆馆舍”指专供领事馆使用的建筑物或部分建筑物及其附属的土地，不论其所有权属谁；

九、“领馆档案”指领事馆的一切函电、密码、文件、记录、卷宗、录音带和簿籍，以及用来保存和保护它们的任何器具；

十、“派遣国船只”指按照派遣国法律悬挂派遣国国旗的船只，不包括军用船只；

十一、“派遣国飞机”指按照派遣国法律标有派遣国国籍和登记标志的飞机，不包括军用飞机；

美利坚合众国和中华人民共和国
领 事 条 约

美利坚合众国和中华人民共和国，

为调整和加强两国领事关系，以促进两国友好合作关系的发展，以利于保护两国国家利益和两国国民的权利和利益；

决定缔结本条约，并各派全权代表如下：

美利坚合众国特派卡特总统；

中华人民共和国特派薄一波副总理。

双方全权代表互相校阅全权证书，认为妥善后，议定下列各条：

第 一 条
定 义

就本条约而言，下列各项用语应具有以下的意义：

一、"领事馆"指总领事馆、领事馆、副领事馆或领事代理处；

[EXCHANGE OF NOTES]

The Secretary of State to the Chinese Ambassador

DEPARTMENT OF STATE
WASHINGTON

September 17, 1980

Excellency:

I have the honor to confirm on behalf of the Government of the United States of America that in the course of negotiating the Consular Convention between the United States of America and the People's Republic of China, the two sides reached agreement on the following questions:

1. The two governments agree to facilitate the reunion of families and will process all applications as quickly as possible under mutually agreed arrangements and in accordance with each side's laws and regulations.

2. The two governments agree to facilitate travel between their respective countries of persons who may have a claim simultaneously to the nationality of the United States of America and the People's Republic of China, but this does not imply that the governments of the two countries recognize dual nationality. Exit formalities and documentation shall be dealt with in accordance with the laws of the country in which such person resides. Entry formalities and documentation shall be dealt with in accordance with the laws of the country of destination.

His Excellency
Chai Zemin,
Ambassador of the People's Republic of China.

3. All nationals of the sending State entering the receiving State on the basis of travel documents of the sending State containing properly executed entry and exit visas of the receiving State will, during the period for which their status has been accorded, and in accordance with the visa's period of validity, be considered nationals of the sending State by the appropriate authorities of the receiving State for the purpose of ensuring consular access and protection by the sending State as provided for in Article 35 of the Consular Convention between the United States of America and the People's Republic of China. If judicial or administrative proceedings prevent the above-mentioned persons from leaving the country within the visa's period of validity, they shall not lose the right of consular access and protection by the sending State. Such persons shall be permitted to leave the receiving State without the necessity of obtaining documentation from the receiving State other than the exit documentation normally required of departing aliens.

4. Both governments agree that persons residing in one country who are entitled to receive financial benefits from the other country shall receive their benefits under mutually agreed arrangements and in accordance with each country's laws and regulations.

If your Excellency confirms the above by a note in reply on behalf of the Government of the People's Republic of China, this note shall constitute an integral part of the above-mentioned Consular Convention and shall come into effect simultaneously with the Consular Convention. At that time, the Annex on Practical Arrangements to the Agreement between the Government of the United States of America and the Government of the People's Republic of China on the Mutual Establishment of Consular Relations and the Opening of Consulates General, signed on January 31, 1979[1] will cease to be in effect.

Accept, Excellency the renewed assurances of my highest consideration.

[2]

[1] TIAS 9177; 30 UST 19.
[2] Edmund S. Muskie.

The Chinese Ambassador to the Secretary of State

NO. 80/051

美利坚合众国国务卿马斯基先生阁下：

我谨收到阁下今天的来照如下：

“我谨代表美利坚合众国政府确认在谈判美利坚合众国和中华人民共和国领事条约的过程中，我们双方就下列问题达成了协议：

一、两国政府同意便利家庭团聚，并按照双方同意的安排和各自的法律和规章尽快地处理一切申请。

二、两国政府同意给予自称同时具有美利坚合众国国籍和中华人民共和国国籍的人在两国间旅行的便利，但这并不意味着两国政府承认双重国籍。上述人员出境手续和证件将按照居住国的法律处理；入境手续和证件将按照前往国的法律处理。

三、凡持有派遣国旅行证件并办妥接受国入出境签证的派遣国国民进入接受国，在他们被赋与该身份的有效期内和签证的有效期内，将被接受国有关当局视为派遣国国民，以保证他们根据中美领事条约第三十五条的规定得到派遣国领事的会见和保

护。如果法律或行政诉讼妨碍上述人员在签证有效期内离开接受国，他们也不应失去派遣国领事的会见和保护权。此类人员应准予离开接受国，除外国人离境时通常所需的证件外，无需取得接受国的其他证件。

四、两国政府同意在接受国境内居住的有资格从派遣国得到经济利益的人应按照双方同意的安排和各自国家的法律和规章领取有关收项。

上述内容如蒙阁下代表中华人民共和国政府复照确认，本照会即构成上述领事条约的组成部分，与领事条约同时生效。美利坚合众国政府和中华人民共和国政府一九七九年一月三十一日关于互相建立领事关系和开设总领事馆的协议的附件"具体安排"即行失效。"

我谨代表中华人民共和国政府确认上述各点。

顺致最崇高的敬意。

中华人民共和国驻美利坚合众国
特 命 全 权 大 使

一九八〇年九月十七日

TRANSLATION

Beijing No. 80/051

Excellency:

I have the honor to acknowledge receipt of your Note dated today; the contents of which follow:

[For the English language text, see pp. 3042-3044.]

I have the honor to confirm the above contents on behalf of the Government of the People's Republic of China.

With my highest considerations.

Respectfully,

Chai Zemin
Plenipotentiary Ambassador
of the People's Republic
of China

His Excellency
Mr. Edmund Muskie,
Secretary of State of the
United States of America

[MODIFYING AGREEMENT]

The Chinese Ministry of Foreign Affairs to the American Embassy

中华人民共和国外交部

(81)部领二字第27号

美利坚合众国驻华大使馆：

中华人民共和国外交部向美利坚合众国驻华大使馆致意，并谨提及《中华人民共和国和美利坚合众国领事条约》中文和英文文本中出现的两处差异，双方同意对上述条约英文文本改动如下：

一、条约序言第一行“美利坚合众国政府和中华人民共和国政府”改为“美利坚合众国和中华人民共和国”。

二、条约末尾签字处“美利坚合众国政府代表”和“中华人民共和国政府代表”改为“美利坚合众国代表”和“中华人民共和国代表”。

上述内容，如蒙大使馆代表美利坚合众国政府复照确认，本照会和大使馆的复照即构成修正上述领事条约的协议，并与领事条约同时生效。

顺致最崇高的敬意。

中华人民共和国外交部

一九八[illegible]年一月十七日于北京

The American Embassy to the Chinese Ministry of Foreign Affairs

Note No. 24

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the People's Republic of China and has the honor to acknowledge receipt of the Ministry's Note Number 27, dated January 17, 1981, the text of which is as follows:

"(81) Bu Ling Er Zi No. 27.

Embassy of the United States of America in China: The Ministry of Foreign Affairs of the People's Republic of China presents its compliments to the Embassy of the United States of America and has the honor to refer to two discrepancies that appear in the Chinese and English texts of the Consular Convention between the People's Republic of China and the United States of America. Both sides agree to change the English text of the above-mentioned convention as follows:

1) The first line in the preamble is changed from "the Government of the United States of America and the Government of the People's Republic of China" to "the United States of America and the People's Republic of China."

2) The signature line at the end of the Convention is changed from "for the Government of the United States of America" and "for the Government of the People's Republic of China" to "for the United States of America" and "for the People's Republic of China."

If the Embassy by return note confirms the above on behalf of the Government of the United States of America, this note and the Embassy's note in reply will constitute an agreement modifying the above-mentioned Consular Convention and will come into effect at the same time as the Consular Convention."

The Embassy confirms its agreement to the above note, and avails itself of the opportunity to renew to the Ministry assurances of its highest consideration.

Embassy of the United States of America
Beijing, January 17, 1981

OMAN

Economic and Technical Cooperation

Agreement signed at Muscat September 4, 1980;
Entered into force September 4, 1980.

SULTANATE OF OMAN

ECONOMIC AND TECHNICAL COOPERATION

ECONOMIC AND TECHNICAL COOPERATION AGREEMENT

The Government of the United States of America and the Government of the Sultanate of Oman agree as follows:

1. The Government of the United States of America will furnish such economic, technical, and related assistance hereunder as may be requested by representatives of the appropriate agency or agencies of the Government of the Sultanate of Oman and approved by representatives of the agency or agencies designated by the Government of the United States of America to administer its responsibilities hereunder, or as may be requested and approved by other representatives designated by the Government of the United States of America and the Government of the Sultanate of Oman. The furnishing of such assistance shall be subject to applicable United States laws and regulations. It shall be made available in accordance with arrangements agreed upon between the above mentioned representatives.

2. The Government of the Sultanate of Oman will make the full contribution permitted by its manpower, resources, facilities, and general economic condition in furtherance of the purposes for which assistance is made available hereunder and provide sufficient support for specific projects and programs to ensure the attainment of project and program goals; will take appropriate steps to assure the effective use of such assistance; will cooperate with the Government of the United States of America to assure that procurement will be

at reasonable prices and on reasonable terms; will, without restriction, permit continuous observation and review by United States representatives of programs and operations hereunder, and records pertaining thereto; will provide the Government of the United States of America with full and complete information concerning such programs and operations and other relevant information which the Government of the United States of America may need to determine the nature and scope of operation and to evaluate the effectiveness of the assistance furnished or contemplated; will give to the people of the Sultanate of Oman full publicity concerning programs and operations hereunder; will, to the maximum extent possible, seek full coordination and integration of technical and economic cooperation programs being carried on in the Sultanate of Oman; and will cooperate with other nations participating in such programs in the mutual exchange of technical knowledge and skills.

3. In any case where commodities or services are furnished on a grant basis under arrangements which will result in the accrual of proceeds to the Government of the Sultanate of Oman from the import or sale of such commodities or services, the Government of the Sultanate of Oman, except as may otherwise be mutually agreed upon by the representatives referred to in paragraph 1 hereof, will establish in its own name a Special Account in the Citibank, N.A.; will deposit promptly in such Special Account the amount of local currency equivalent to such proceeds; and upon notification from time to time by the Government of the United States of America of its local currency requirements for program and operations hereunder, will make available to the Government of the United States

of America, in the manner requested by the Government, out of any balances in the Special Account, such sums as are stated in such notification to be necessary for such requirements. The Government of the Sultanate of Oman may draw upon any remaining balances in the Special Account for such purposes beneficial to the Sultanate of Oman as may be agreed upon from time to time by the representatives referred to in paragraph 1 hereof. Any unencumbered balances of funds which remain in the Special Account upon termination of assistance hereunder to the Government of the Sultanate of Oman shall be disposed of for such purposes as may be agreed upon by the representatives referred to in paragraph 1 hereof.

4. The Government of the United States of America and the Government of the Sultanate of Oman agree that a special mission, which consists solely of United States Government personnel assigned to perform services in the Sultanate of Oman under the Joint Commission agreement of August 19, 1980[1] establishing said Commission by the mutual consent of the Government of the United States of America and the Government of the Sultanate of Oman, will be received by the Government of the Sultanate of Oman to carry out and discharge responsibilities agreed under this agreement by both sides. The Government of the United States of America and the Government of the Sultanate of Oman further agree that the special mission (as defined above) shall, except for the office space of the Joint Commission, enjoy the same inviolability of premises as is extended to the diplomatic mission of the United States of America, in accordance with the Vienna Convention on Diplomatic Relations of April 18, 1961,[2] and that the Government of the Sultanate of Oman shall accord the United States Government personnel comprising the special mission and their

[1] TIAS 10189; *ante*, p. 2428.
[2] TIAS 7502; 23 UST 3227.

families (other than citizens and permanent residents of Oman) the same immunities as are accorded by the Government of the Sultanate of Oman, in accordance with the Vienna Convention on Diplomatic Relations of April 18, 1961, to the personnel of comparable rank and category of the Embassy of the United States of America. These employees will be subject to the same obligations and responsibilities as apply to members of comparable rank and category of the Embassy of the United States of America.

5. In order to assure the maximum benefits to the people of the Sultanate of Oman from the assistance to be furnished hereunder:

(a) Any supplies, material, or equipment introduced into or acquired in the Sultanate of Oman by the Government of the United States of America, or any contractor financed by that Government, for purposes of any program or project, conducted hereunder, shall, while such supplies, material or equipment are used in connection with such a program or project, be exempt from any taxes on ownership or use of property and any other taxes in the Sultanate of Oman, and the import, export, purchase, use, or disposition of any such supplies, materials or equipment, in connection with such a program or project shall be exempt from any tariffs, customs duties, import and export taxes, taxes on purchase or disposition of property, and other taxes or similar charges in the Sultanate of Oman. No tax (whether in the nature of an income, profit, business, or other tax), duty, or fee of whatsoever nature shall be imposed upon any contractor financed by the Government of the United States of America hereunder.

(b) All personnel (and their families), except citizens and permanent residents of the Sultanate of Oman, whether (i)

employees of the Government of the United States of America or any Agency thereof or individuals under contract with or financed by, or employees of public or private organizations under contract with or financed by the Government of the United States of America or any agency thereof, or (ii) individuals under contract with, or employees of public and private organizations under contract with, the Government of the Sultanate of Oman or any agency thereof, who are present in the Sultanate of Oman or perform work in connection with this Agreement shall be exempt from income and social security taxes levied under the laws of the Sultanate of Oman with respect to income upon which they are obligated to pay income or social security taxes to any other government and from taxes on the purchase, ownership, use, or disposition of personal moveable property (including automobiles) intended for their own use. Such personnel (and their families) shall be exempt from customs, import, and export duties on all personal effects, equipment, and supplies imported into the Sultanate of Oman for their own use, and from all other duties and fees.

(c) Funds introduced into the Sultanate of Oman by the Government of the United States of America for purposes of furnishing assistance hereunder shall be convertible into currency of the Sultanate of Oman at the highest rate prevailing at the time the conversion is made that has been declared for foreign currency by the competent authorities of the Government of the Sultanate of Oman.

6. The Government of the United States of America and the Government of the Sultanate of Oman will establish procedures whereby the Government of the Sultanate of Oman will so deposit, segregate, or assure title to all funds allocated to or derived from any program of assistance undertaken hereunder by the Government of the United States of America in such manner that such funds shall not be or become subject to garnishment, attachment, seizure, or other legal process by any person, firm, agency, corporation, organization, or government, when the Government of the Sultanate of Oman is advised by the Government of the United States of America that such legal process would interfere with the attainment of the objectives of the program of assistance hereunder. If there is any claim of any such person, firm, agency, corporation, organization or government, the Government of the Sultanate of Oman and the Government of the United States of America agree to discuss such claim.

7. All or any part of any program of assistance provided hereunder may, except as may otherwise be provided in arrangements agreed upon pursuant to paragraph 1 hereof, be terminated by either Government if that Government determines that because of changed conditions the continuation of such assistance is unnecessary or undesirable. The termination of such assistance under this provision may include the termination of deliveries of any commodities hereunder not yet delivered.

8. This agreement shall enter into force upon signature and shall remain in force for ten years and indefinitely thereafter, from the date of signature, and may be terminated

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at any time by either Government by one year advance notice in writing. Notwithstanding any such termination, however, the provisions hereof shall remain in full force and effect with respect to assistance theretofore furnished.

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present agreement at Muscat in two original copies each in English and Arabic, both texts being equally authentic, on the 4th of September 1980.

Stephen W. Buck[1]
For the Government of the United States of America

[2]
For the Government of the Sultanate of Oman

[1] Stephen W. Buck.
[2] Yusuf Al-Alawi.

٨ ـ يسرى مفعول هذه الاتفاقية حال التوقيع عليها وتبقى نافذة المفعول لمدة عشر سنوات ، ولاجل غير مسمى فيما بعد ، يجوز انهائها باخطار احد الطرفين للاخر كتابيا فى اى وقت بمهلة سنة واحدة

وبغض النظر عن ذلك الالغاء تظل هذه الاتفاقية سارية المفعول فيما يتعلق بالمعونات التى تكون قد قدمت حتى ذلك الوقت .

واشهادا بذلك ، قام الممثلون المعنيون والمخولون بالتوقيع على هذه الاتفاقية فى مسقط بتاريخ ٤ سبتمبر ١٩٨٠م من نسختين اصليتين باللغة الانجليزية واللغة العربية ولكل منهما حجية متساوية .

عن حكومة الولايات المتحدة الامريكية .

عن حكومة سلطنة عمان .

الضمان الاجتماعي لاية حكومة اخرى وكذلك من كافة الضرائب المفروضة على عمليات شراء وتملك واستعمال او التصرف في المنقولات الشخصية (بما فيها السيارات) المعدة لاستعمالهم الشخصي ، ويعفى هؤلاء الموظفون وعائلاتهم من كافة الرسوم الجمركية والرسوم الاخرى المفروضة على استيراد وتصدير الامتعة الشخصية والمعدات والمؤن التي تستورد الى سلطنة عمان لاستعمالهم الشخصي .

(ج) تحسب المبالغ التي تحولها حكومة الولايات المتحدة الامريكية الى سلطنة عمان لاغراض تمويل المعونة طبقا لهذه الاتفاقية بالعملة العمانية على اساس اعلى سعر سائد ومعلن للعملة الاجنبية بواسطة السلطات المختصة في السلطنة عند اجراء عملية التحويل .

٦ ـ تقوم حكومتا الولايات المتحدة الامريكية وسلطنة عمان بوضع اجراءات تتمكن بمقتضاها حكومة السلطنة من ايداع وتملك المبالغ المتحصلة من اي برنامج معونة تقوم به حكومة الولايات المتحدة الامريكية وتخصصه له وفقا لهذه الاتفاقية بشكل لا تخضع معه هذه المبالغ لاية اجراءات تجميد او حجز او مصادرة او اية اجراءات قانونية اخرى يقوم بها اي شخص او منشاة او وكالة او شركة او هيئة او حكومة ، عندما تقوم حكومة الولايات المتحدة الامريكية باخطار حكومة سلطنة عمان بان تلك الاجراءات القانونية تتعارض مع تحقيق الاغراض المنشودة في برنامج المعونة بموجب هذا الاتفاق .
وتوافق حكومة سلطنة عمان وحكومة الولايات المتحدة الامريكية على النظر في اي شكوى تقدم من اي شخص او منشاة او وكالة او هيئة او شركة او حكومة .

٧ ـ ما لم تنص الترتيبات المتفق عليها وفقا للفقرة (١) اعلاه ، على العكس يجوز لاي من الحكومتين ان تلغي كلا او جزأ من اية برنامج معونة منصوص عليه بموجب هذه الاتفاقية اذا وجدت تلك الحكومة ان استمرار تلك المعونة ليس ضروريا او ليس مرغوبا فيه بسبب تغير الظروف ، وانهاء تلك المعونة وفقا لهذا النص يجوز ان يتضمن الغاء تسليم اية سلعة لم تكن قد سلمت بعد .

١٨ ابريل ١٩٦١م لنظرائهم من موظفى سفارة الولايات المتحدة الامريكيـــة ، ويخضع هؤلاء الموظفين لنفس الالتزامات والمسئوليات التى يخضع لها نظراؤهم من اعضاء سفارة الولايات المتحدة الامريكيـــــة .

٥ ـ ولضمان حصول الشعب العمانى على اقصى ما يمكن من الاستفادة من المعونة المقدمـــة بموجب هذه الاتفاقيـــــة :

(ا) تعفى المواد والمعدات التى يتم تقديمها او الحصول عليها بواسطة حكومة الولايات المتحدة الامريكية او بواسطـة اى مقاول يمول من قبلها لا غراض تتعلق باى برنامج او مشروع يجرى القيام به وفقا لهذه الاتفاقية وذلك اثناء استخدام هذه المعدات والمهمات او المواد المتعلقة بهذه المشروعات او البرامج ، وتعفى من كافة الضرائب المقررة فى سلطنـة عمـان على الملكية او استعمالها او اى ضرائب اخرى تكون ساريـــة المفعول عليها ، تعفى عمليات استيراد وتصدير وشراء او استعمال او التصرف اى من المواد والمهمات والمعدات المتعلقة بهذه البرامـــج والمشـــروعات من كافـة الضـــرائب والرسوم الجمركية او الضـرائب المقررة على عمليات الاستيراد والتصدير او الشراء او التصرف فى الملكية او اى ضرائب او اعباء اخرى مماثلة لذلك فى سلطنة عمـــان .

ولا يخضـــع اى مقاول يمول وفقا لهذه الاتفاقية من قبل حكومة الولايات المتحـــدة الامريكية لاية ضرائب سواء كانت ضرائب على الدخل او الارباح او الاعمال التجارية او اى ضرائب اخرى او رسوم اى كانت طبيعتها .

(ب) يعفى كل الموظفين (وعائلاتهم) فيما عدا المواطنين والمقيمين الدائمين فى عمـــان ســـواء اكانوا :

١ ـ من موظفي حكومة الولايات المتحدة الامريكيـــة او افراد متعاقدين مـــع حكومة الولايات المتحدة الامريكية او ممولين منها او يعملون لـــــدى احـــدى المؤسسات العامة او الخاصة المتعاقـــــدة مع حكومة الولايـــات المتحدة الامريكيـة او الممولة منها او مـن احـدى وكالاتها ... او ،

٢ ـ افراد متعاقدين مع حكومة سلطنة عمـان او موظفي احدى المؤسســـات العامة او الخاصة المتعاقـدة مع حكومة سلطنة عمان ، او احـــــد فـــي وكالاتها الموجديـــن في سلطنة عمان بقصـد القيام باعمال تتعلق بهذه الاتفاقية من كافة ضرائب الدخل والضمان الاجتماعى المقررة وفقا لقوانين سلطنة عمان والمتعلقة بالدخل والملزمين بموجبها دفع ضرائب الدخل او

وتسعى حكومة السلطنة باقصى قدر ممكن لتحقيق التناسق والتوافق الكاملين لبرامج التعاون الفنى والاقتصادى فى سلطنة عمان وتتعاون مع الدول الاخرى المساهمة فى تلك البرامج لتبادل المعرفة والمهارات الفنيـــة ٠

٣ ــ بالنسبة للسلع او الخدمات المقدمة على سبيل منحة و تؤول حصيلة بيعهـــا او استيرادها الى حكومة سلطنة عمان ، فانه ما لم يتفق الممثلون المشار اليهم فـــى الفقرة (١) اعلاه بخلاف ذلك تقوم حكومة السلطنة بفتـــح حساب خاص لـــدى سيتى بنك باسمها وتودع فيه القيمة المتحصلة عن ذلك بالعملة المحليـــة ٠ وتيسر من هذا الحساب لحكومة الولايات المتحدة الامريكية المبالغ التى تحتاجها هذه الاخيرة من وقت لاخر بالعملة المحلية لكى توفى متطلباتها للبرامج والعمليات طبقـــا لهذا الاتفاق ٠ على ان يتم تيسير هذه المبالغ بالطريقة التى تراها حكومة الولايات المتحدة الامريكيـــة ٠ يجوز لحكومة سلطنة عمان ان تسحب ما يتبقى من ارصـــدة بالحساب الخاص لاغراض تعود بالنفع على سلطنة عمان حسب اتفاق الممثلين المشار اليهـــم فى الفقرة (١) اعلاه من وقت لاخـــر ٠ وعند انتهاء المعونة لحكومـــــة سلطنة عمان يصرف ما يتبقى من الارصدة غير الملتزمـــة على الاغراض التى يوافق عليهـــا الممثلون المشار اليهم فى الفقرة (١) اعـــلاه ٠

٤ ــ توافق حكومة الولايات المتحدة الامريكية وحكومة سلطنة عمان على ان بعثة خاصة مكونة من موظفى حكومة الولايات المتحدة الامريكية فقط مكلفة بانجـــاز خدمـــات معينة فى سلطنة عمـــان بموجب اتفاقية اللجنة المشتركة بتاريـــــخ ١٩/٨/١٩٨٠م المعنية بتكوين اللجنة المذكورة بالاتفاق المشترك بيـــــن حكومة الولايات المتحدة الامريكيـــة و حكومة سلطنة عمان. تستقبل حكومـــة سلطنة عمـــان هذه البعثة الخاصـــة لتقـــوم بتنفيذ مسئوليات والتزامات الجانبيـــن الناشئة عن هذه الاتفاقيـــــــة ٠

وكذلك تتفق حكومة الو لايات المتحدة الامريكية وحكومة سلطنة عمان على ان البعثـــة الخاصـــة (كما هى معرفة اعـــلاه) ستتمتـــع بنفس الحصانات الممنوحة للبعثة الدبلوماسيـــة للولايات المتحدة الامريكية بموجب اتفاقيـــة فيينـــا للعلاقات الدبلوماسية الموقعة فـــى ١٨ ابريل ١٩٦١م على ان لا يشمل ذلك مبانى مكاتب اللجنة المشـــــتركة ٠

وتقوم حكومة سلطنة عمان بمنح جميع موظفى حكومة الولايات المتحدة الامريكية اعضاء البعثة الخاصة وعائلاتهم (عدا المواطنين والمقيمين الدائمين فى عمـــان) نفـــس الحصانة التى تمنحها بموجب اتفاقية فيينـــا للعلاقات الدبلوماسيـــــة

سلطنـــة عمـــان

التعـــاون الاقتصـــادى والفـــنى

اتفـــاقيـــة التعـــاون الاقتصـــادى والفـــنى

اتفقت حكومة الولايات المتحدة الامريكية وحكومة سلطنـــة عمان على ما يلـــى • —

١ — تقوم حكومة الولايات المتحدة الامريكية بتقديم المعونة الاقتصادية والفنيـــة وما يتصل بها من مسائل وفقا لاحكام هذا الاتفاق و وفقا لما يطلبه الممثلون عن الجهة او الجهات المختصة بحكومة سلطنة عمان ويوافق عليها ممثلون عن الجهة او الجهات التى تعينها حكومة الولايات المتحدة الامريكية للقيام بادارة مسئولياتها وفقا لاحكام هذا الاتفاق اوحسب طلب وموافقة ممثلين آخرين تعينهم حكومة الولايـــات المتحدة الامريكية وسلطنة عمان • يخضع تقديم هذه المعونات للقوانين واللوائح المطبقـــة بالولايات المتحدة وتقدم هذه المعونة طبقا للترتيبات التى يتفق عليهـــا الممثلون المذكورون أعـــــلاه •

٢ — تساهم حكومة سلطنة عمان فى دعم الأهداف التى تقدم من اجلها المعونات المبينة بهذه الاتفاقية بالقدر الذى تسمح به امكانياتها من حيث الايدى العاملـــة والموارد والتسهيلات والظروف الاقتصادية العامـــة وتقوم بتقديم الدعم الكافـــى للمشاريع والبرامج المحددة من اجل تحقيق اهداف البرنامج والمشـــروع • وتقوم كذلك باتخاذ الخطوات المناسبة لضمان حسن استخدام هذه المعونات و تتعاون مـــع حكومة الولايات المتحدة الامريكية لتأمين المشتريات المطلوبة باسعار وشروط معقولة • كما تسمح دون اى تقييد لمندوبى حكومة الولايات المتحدة الامريكية بالقيام باستمـــرار بمراقبة ومراجعة البرامج والعمليات التى تنفذ طبقا لهذه الاتفاقية وكذا التسجيلات المتعلقة بها وتقوم بتزويد حكومة الولايات المتحدة الامريكية ببـــيانات كافية ، وشاملـــة عن البرامج والعمليات واية معلومات اخرى مرتبطة بها ترى حكومة الولايات المتحدة الامريكية الحاجة اليها لتحديد طبيعة وحجم تلك البرامج والعمليات ولتقييم فاعليـــة المعونات المقدمة او المزمع تقديمها • ولحكومة السلطنة اطلاع الشعب بتفاصيـــل البرامج والعمليات التى تتم طبقا لهذه الاتفاقيـــة •

RWANDA

International Military Education and Training (IMET)

Agreement effected by exchange of notes
Dated at Kigali March 6 and 11, 1980;
Entered into force March 11, 1980.

The American Embassy to the Rwandan Ministry of Foreign Affairs and Cooperation

No. 16

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and Cooperation of the Republic of Rwanda and has the honor to refer to certain requirements of United States law concerning the provision of training related to defense articles under the United States International Military Education and Training (IMET) Program.

The provisions of United States law in question prohibit the furnishing of IMET training related to defense articles unless the recipient country shall have first agreed to observe certain conditions with respect to such training. These conditions are:

1. That the recipient government will not, without the consent of the United States Government --

   A. permit any use of such training (including training materials) by anyone not an officer, employee, or agent of the recipient government;

   B. transfer or permit any officer, employee, or agent of the recipient government to transfer such training (including training materials) by gift, sale, or otherwise to anyone not an officer, employee, or agent of the recipient government; or

   C. use or permit the use of such training (including training materials) for purposes other than those for which furnished by the United States Government;

2. That the recipient country will maintain the security of such training (including training materials) and will provide substantially the same degree of security protection afforded to such training and materials by the United States Government;

3. That the recipient country will permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of such training (including training materials); and

4. That the recipient country will return to the United States Government such training (including training materials) as is no longer needed for the purposes for which furnished, unless the United States Government consents to some other disposition.

Inasmuch as the IMET Program with the Armed Forces of the Government of Rwanda may include training related to defense articles with respect to which the agreement of the Government of Rwanda to observe the foregoing conditions is required, the Embassy of the United States of America has the honor to propose that this Note, together with the Note in reply of the Ministry of Foreign Affairs and Cooperation stating that such conditions are acceptable to the Government of Rwanda, shall constitute an agreement between the two Governments on this subject, to be effective from the date of the Ministry's Note in reply.

The Embassy of the United States of America takes this opportunity to renew to the Ministry of Foreign Affairs and Cooperation of the Republic of Rwanda the assurance of its highest consideration.

H R M

Embassy of the United States of America,

Kigali, March 6, 1980.

The Rwandan Ministry of Foreign Affairs and Cooperation to the American Embassy

REPUBLIQUE RWANDAISE

Ministère des Affaires Etrangères
et de la Coopération
B.P. 179 KIGALI

Kigali, le .....

N° 130 /16.00/CAB

MAR 12 1980

N. Réf: n°

V. Réf: n°

Annexes :

Le Ministère des Affaires Etrangères et de la Coopération de la République Rwandaise présente ses compliments à l'Ambassade des Etats-Unis d'Amérique à Kigali et a l'honneur d'accuser réception de sa note n° 16 du 6 Mars 1980 relative aux articles de défense relevant du Programme d'Education et de Formation Militaires International des Etats-Unis ou Programme IMET et libellée comme suit:

"L'Ambassade des Etats-Unis d'Amérique "
"présente ses compliments au Ministère des Affaires Etrangères "
"et de la Coopération de la République Rwandaise et a l'honneur"
"de se référer à certaines stipulations de la Loi des Etats- "
"Unis concernant la formation de personnel à assurer relati- "
"vement aux articles de défense relevant du Programme d'Edu- "
"cation et de Formation Militaires International des Etats- "
"Unis ("United States International Military Education and "
"Training Program") ou Programme IMET".

"Les dispositions susmentionnées de la "
"législation des Etats-Unis interdisent d'assurer une for- "
"mation du personnel dans le cadre du Programme IMET concer- "
"nant des articles de défense à moins que le pays d'accueil "
"n'ait préalablement accepté de respecter certaines condi- "
"tions régissant cette formation. Ces conditions sont les "
"suivantes:"

I. "Le Gouvernement d'accueil, sans le consentement du "
"Gouvernement des Etats-Unis:"

A. "n'autorisera la participation à ce programme de "
"formation (ou l'emploi de matériaux de formation) par "
"quiconque n'étant pas officier, fonctionnaire ou agent du "
"Gouvernement d'accueil;"

B. "ne procèdera au transfert ni n'autorisera un officier,"
"fonctionnaire ou agent du Gouvernement d'accueil à procéder "
"au transfert de connaissances acquises par voie de cette "
"formation (ni des matériaux de formation) à titre de don, à "
"titre onéreux ou à tout autre titre, à quiconque n'étant pas "
"un officier, un fonctionnaire ou un agent du Gouvernement "
"d'accueil;"

C. "ne participera ni n'autorisera la participation à ce "
"Programme de Formation (ou à l'emploi des matériaux de formation)"
"à des fins autres que celles auxquelles cette formation est "
"assurée par les Etats-Unis".

2. "Le pays d'accueil assurera le secret de cette for- "
"mation (et la protection des matériaux de formation) et assurera"
"sensiblement le même degré de protection du secret que celle qui"
"est assurée à ce programme de formation et aux matériaux employés"
"par le Gouvernement des Etats-Unis".

3. "Le pays d'accueil autorisera l'observation et l'examen"
"continuels par des représentants habilités du Gouvernement des "
"Etats-Unis de ce Programme de Formation ainsi que des matériaux "
"de formation et fournira tous renseignements nécessaires aux fins"
"de cet examen".

4. "Le pays d'accueil rendra au Gouvernement des Etats- "
"Unis les moyens de formation du Programme (y compris les maté- "
"riaux de formation) lorsque ces moyens ne seront plus nécessaires"
"pour les besoins pour lesquels ils auront été fournis, à moins "
"que le Gouvernement des Etats-Unis ne consente à ce qu'il en soit"
"disposé d'une autre manière".

"Vu que le Programme IMET auquel parti- "
"ciperaient les Forces Armées du Gouvernement Rwandais serait "
"susceptible de comporter une formation relative aux articles de "
"défense concernant lesquels l'engagement du Gouvernement Rwandais"
"à respecter les conditions susmentionnées est requis, l'Ambassade"
"des Etats-Unis d'Amérique a l'honneur de proposer que la présente"
"Note et la réponse signifiée par Note du Ministère des Affaires "
"Etrangères et de la Coopération déclarant que lesdites conditions"
"sont acceptables au Gouvernement Rwandais constituent un accord "
"entre les deux Gouvernements à ce sujet, entrant en vigueur à "
"compter de la date de la réponse du Ministère".

Le Ministère des Affaires Etrangères et de la Coopération a l'honneur de confirmer à l'Ambassade des Etats-Unis d'Amérique l'accord du Gouvernement Rwandais aux conditions reprises ci-avant. Sa note et la présente réponse constituent donc un accord entre les deux Gouvernements, entrant en vigueur à la date de ce jour.

Le Ministère des Affaires Etrangères et de la Coopération saisit cette occasion pour renouveler à l'Ambassade des Etats-Unis d'Amérique les assurances de sa très haute considération.

Kigali, le 11 Mars 1980

AMBASSADE DES ETATS-UNIS
D'AMERIQUE
K I G A L I.-

TIAS 10211

TRANSLATION

REPUBLIC OF RWANDA
Ministry of Foreign Affairs
and Cooperation
B.P. 179 Kigali

No. 130/16.00/CAB

The Ministry of Foreign Affairs and Cooperation of the Republic of Rwanda presents its compliments to the Embassy of the United States of America at Kigali and has the honor to acknowledge receipt of its note No. 16 of March 6, 1980 regarding defense articles under the United States International Military Education and Training (IMET) Program, which reads as follows:

[For the English language text, see pp. 3065-3066.]

The Ministry of Foreign Affairs and Cooperation has the honor to confirm to the Embassy of the United States of America that the Government of Rwanda agrees to the foregoing conditions. Its note and this reply shall therefore constitute an agreement between the two Governments, effective today.

The Ministry of Foreign Affairs and Cooperation avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its very high consideration.

Kigali, March 11, 1980

[Signature]

[SEAL]

Embassy of the
United States of America,
Kigali.

REPUBLIC OF KOREA

Trade: Color Television Receivers

Agreement amending and extending the agreement of December 14, 1978 and January 2 and March 12, 1979.
Effected by exchange of letters
Signed at Seoul and Washington September 15 and October 30, 1980;
Entered into force October 30, 1980;
Effective July 1, 1980.
With related letters.

The Korean Director General of Trade Promotion, Ministry of Commerce and Industry, to the Assistant United States Trade Representative

SEOUL, KOREA
September 15, 1980

DEAR MR. LANDE:

I have been authorized by my Government to transmit to you a copy of a memorandum which sets forth the extension of self-restraint measures to be applied to exports of color television receivers from Korea. The Government of the Republic of Korea intends to continue the measures set forth in the memorandum of December 14, 1978[1] from Pil Soo Park to Stephen Lande, as amended, during the period ending on June 30, 1982. A copy of the memorandum setting forth the measures as continued is enclosed.

I further request that you confirm on behalf of the Government of the United States of America that it will implement its measures and obligations under the provision of this memorandum, and propose that this memorandum and your reply constitute an agreement between the two Governments.

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[1] TIAS 9432; 30 UST 3882.

Accept the renewed assurances of my highest consideration.

CHULSU KIM

Chulsu Kim

Director General of
Trade Promotion,
Ministry of Commerce
and Industry

MR. STEPHEN L. LANDE
Assistant United States
Trade Representative,
Office of the United States
Trade Representative,
The Executive Office of the
President,
Washington DC

MEMORANDUM

1. This memorandum describes the self-restraint measures which the Government of the Republic of Korea will continue with respect to future exports of color television receivers to the United States. The definition of color television receivers is set forth in Annex A and the restraint levels for exports of color television receivers from the Republic of Korea to the United States in the third and fourth periods are set forth in Annex B.

2. The Government of the Republic of Korea will continue to administer these restraints through the issuance of export visas as provided in the Memorandum of 14 December 1978. Unless such receivers have been issued valid export visas by the Government of the Republic of Korea, they will be denied importation for consumption in the United States.

3. In order to assure that there is full compliance with its self-restraint measures, the Government of the Republic of Korea will collect and maintain comprehensive data on exports of color television receivers to the United States.

4. (a) The Government of the Republic of Korea recognizes that the objectives of the measures of self-restraint described in the memorandum would not be achieved if exports of color television receivers from Korea were to reach the United States indirectly via exports to third countries. Accordingly, the Government of the Republic of Korea will assure that Korean exporters will obtain, as a condition of sale, contractual commitments from importers in third countries that there will be no transshipment of Korean exports to the United States. In addition, the Government of the Republic of Korea will monitor

exports to third countries from the point of view of preventing, before export, shipments which would be destined for transshipment to the United States.

(b) The Government of the Republic of Korea will use its best efforts to space exports of color television receivers to the United States as evenly as practicable, over the restraint period, consistent with seasonal considerations.

5. (a) Exports of color television receivers during the restraint periods shall be counted against the restraint level applicable to the restraint period in which they are exported. However, upon timely request up to 11 percent of the restraint level in Period 2 can be carried over into Period 3, and up to 11 percent of the restraint level in Period 3 can be carried over into Period 4. In addition, the restraint level in Period 3 can be exceeded by 10 percent, provided the same amount is deducted from Period 4.

(b) Exceptions to the specifications in subparagraph (a) above that imports are to be counted against the restraint level for the restraint period in which they are exported may be made in order to (1) permit imports that are exported in any given restraint period, but that are not imported for consumption until more than 90 days following the beginning of the following restraint period, to be counted against the restraint level for that following restraint period; and (2) permit imports that were exported in any given restraint period, but that were denied entry in that restraint period pursuant to subparagraph (c) below to be counted against the restraint level for the following restraint period. The Government of the United States of America will notify the Government of the Republic of Korea as soon as possible should it become necessary for the Government of the United States of America to delay importation due to filling of the restraint level.

(c) Except as provided in paragraphs (a) and (b) in the event that the restraint level set forth in Annex B is reached prior to the end of a restraint period, importation of color television receivers into the United States will be delayed until after the end of that restraint period.

6. The actions described in this memorandum are taken under the assumption that, provided the measures outlined in this memorandum and its annex are fully implemented by the Government of the Republic of Korea, the Government of the United States of America will not unilaterally restrict the import of color television receivers from the Republic of Korea except as provided below.

7. The Government of the Republic of Korea recognizes and accepts the fact that the Government of the United States of America may take action under Section 203 (g) (2) of the Trade Act of 1974[1] to assist the Government of the Republic of Korea in administering its self-restraint measures in the event that it appears exports from Korea may exceed the levels of self-restraint which the Government of the Republic of Korea has stated it will apply in this memorandum.

[1] 88 Stat. 2017; 19 U.S.C. § 2253(g) (2).

8. The Government of the Republic of Korea will promptly supply the Government of the United States of America with monthly data on exports to the United States of color television receivers as such data become available. The Government of the United States of America will supply the Government of the Republic of Korea with data on monthly imports of color television receivers, by principal countries of origin, as such data become available. Each Government agrees to supply promptly any other pertinent and readily available statistical data requested by the other Government. In accordance with current practice, United States data will be used in determining the necessity for delay by the Government of the United States of America of any imports pursuant to this memorandum.

9. (a) Either Government may request consultations on any matters arising from the provisions of this memorandum including, inter alia, any problems that may arise relating to circumventions of the Agreement embodied in this memorandum and your reply. Such consultations will take place at a mutually convenient time, no later than thirty days from the date on which such request is made, unless otherwise mutually agreed.

(b) If, in the view of either Government, the economic conditions prevailing at the time of the acceptance of the provisions of this memorandum have changed substantially, that Government may initiate consultations for review of the provisions of this memorandum including the possibility of termination or modification of the export restraints.

(c) Mutually satisfactory administrative arrangements or adjustments may be made to resolve problems arising in the implementation of this memorandum and your reply, including differences in points of procedure or operation.

10. (a) If the Government of the Republic of Korea considers that, as a result of the application of the provisions of this memorandum, the Republic of Korea is placed in an inequitable position vis-a-vis other major exporting countries with respect to exports to the United States of color television receivers, the Government of the Republic of Korea may initiate consultations with the Government of the United States of America.

(b) In order to assure the effectiveness of the self-restraint measures of this memorandum, it is understood that the composition of trade in color television receivers and the articles identified in Annex C will not change radically. If imports into the United States of articles identified in Annex C increase so substantially as to undermine the effectiveness of the subject restraints, then it is understood that the Government of the United States of America reserves the right to consult with a view toward appropriate action.

11. The two Governments may amend the provisions of this memorandum if such amendments are mutually agreeable.

12. No provisions of this memorandum will be construed as applying to prices or production of color television receivers or allocation of

shipments among firms selling (except that it is recognized that such allocation may be deemed necessary and therefore directed by the Government of the Republic of Korea in its implementation of the provisions of this memorandum) or buying color television receivers.

13. Either Government may terminate the provisions of this memorandum by giving sixty days prior written notice to the other Government.

14. The foregoing provisions of this memorandum and your reply will be implemented by the two Governments in accordance with the laws and regulations applicable in their respective countries.

ANNEX A

For purposes of this memorandum the term "color television receivers" means those articles currently classified under item numbers 685.1127, 685.1128, 685.1129, 685.1135, 685.1142, 685.1455, 685.1461 and 685.1462 of the Tariff Schedules of the United States Annotated (1980) excluding those 12 inches and under.

ANNEX B

Restraints will be applied on exports to the United States of color television receivers as defined above so that exports to the United States from Korea will not exceed the following levels during the periods specified:

Period 3* (July 1, 1980–June 30, 1981)—385,000 sets
Period 4 (July 1, 1981–June 30, 1982)—575,000 sets

ANNEX C

The articles referred to in paragraph 10(b) of this memorandum are those classified in item number 685.1564 of the Tariff Schedules of the United States of America Annotated (1980).

*Any excess color television receivers up to 50,000 sets exported from Korea prior to July 1, 1980 which enter the United States for consumption on and after July 1, 1980 will not be counted against the third period. That quantity in excess of 50,000 sets, if any, will be counted against the third period. [Footnote in the original.]

The Assistant United States Trade Representative for Bilateral Affairs to the Korean Director General of Trade Promotion, Ministry of Commerce and Industry

TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

OCTOBER 30, 1980

Mr. CHULSU KIM
Director General of
Trade Promotion
Ministry of Commerce and Industry
Republic of Korea
Seoul, Korea

DEAR MR. KIM:

This letter acknowledges receipt of your communication of September 15, transmitting a signed copy of the memorandum which sets forth the extension of self-restraint measures to be applied to exports of color television receivers from Korea. The Government of the United States of America confirms the implementation of measures and obligations undertaken under the provisions of this memorandum.

To further the understanding between our two governments concerning trade in color television receivers of a screen size of 12 inches or less, a separate letter is enclosed.

Sincerely,

STEPHEN L. LANDE

Stephen L. Lande
Assistant United States
Trade Representative for
Bilateral Affairs

Enclosure

[RELATED LETTERS]

SEOUL, KOREA

September 15, 1980

DEAR MR. LANDE:

With respect to Annex B of the memorandum of September 15, 1980, it is our understanding that periods 3 and 4 each will be subdivided into two time periods with appropriate restraint levels as follows:

Period 3(a)—July 1, 1980—December 31, 1980, 185,000 sets.
Period 3(b)—January 1, 1981—June 30, 1981, 200,000 sets.
Period 4(a)—July 1, 1981—December 31, 1981, 275,000 sets.
Period 4(b)—January 1, 1982—June 30, 1982, 300,000 sets.

In period 3, there will be a carryover of 11 percent from subperiod 3(a) to subperiod 3(b), but no carryforward will be permitted into subperiod 3(a). In period 4, there will be a carryover of 11 percent from subperiod 4(a) to subperiod 4(b) and carryforward of 10 percent will be permitted from subperiod 4(b) to subperiod 4(a). It is our understanding that the Government of the United States of America reserves the right to consult with the Government of the Republic of Korea on carryforwards between subperiod 4(a) and subperiod 3(b) in the event of unfavorable market conditions in the United States. Amounts carried forward from any subperiod will be deducted from the subsequent subperiod. If imports in any subperiod reach the specified or adjusted level prior to the end of the subperiod, importation of color television receivers into the United States will be delayed until after the end of the subperiod.

Accept the renewed assurances of my highest consideration.

CHULSU KIM

Chulsu Kim
Director General
of Trade Promotion,
Ministry of Commerce
and Industry

MR. STEPHEN L. LANDE
Assistant United States
Trade Representative,
Office of the United States
Trade Representative,
The Executive Office of the
President,
Washington DC

TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

OCTOBER 30, 1980

Mr. CHULSU KIM
Director General of
Trade Promotion
Ministry of Commerce and Industry
Republic of Korea
Seoul, Korea

DEAR MR. KIM:

During the course of our recent negotiations on color television receivers your government questioned the value of excluding color television receivers of a screen size 12 inches or less from restraint levels. Your government asserted that such a concession was of no value to the Korean industry since such sets were not being produced in Korea and future production during the restraint periods was unlikely. Based upon this assertion, and in the interest of maintaining equity among trading partners, we accepted larger levels of Korean imports than would otherwise have been justified.

My government wishes to reaffirm its continuing concern for ensuring that the equity rights of all trading partners are maintained. In the event that color television receivers of a screen size of 12 inches or less are exported to the United States from Korea in quantities substantially in excess of amounts previously exported, my government will be obliged to request consultations, if it appears necessary for restoring the balance of concessions among trading partners.

Sincerely,

STEPHEN L. LANDE

Stephen L. Lande
Assistant United States
Trade Representative for
Bilateral Affairs

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Atomic Energy: Liquid Metal-Cooled Fast Breeder Reactors

Agreement signed at Washington September 20, 1976;
Entered into force September 20, 1976.
And amending agreement
Signed at Washington August 14 and 18, 1978;
Entered into force August 18, 1978.
And extending agreement
Effected by exchange of letters
Signed at Warrington and Washington April 30 and August 12, 1981;
Entered into force August 12, 1981.

AGREEMENT

between

THE UNITED STATES ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

and the

UNITED KINDGOM ATOMIC ENERGY AUTHORITY

in the field of

LIQUID METAL-COOLED FAST BREEDER REACTORS

This Agreement is made as of the 20th day of September, 1976 between the United States Energy Research and Development Administration (hereinafter referred to as "ERDA") having their principal office at 20 Massachusetts Avenue, NW., Washington, D.C. 20545, and the United Kingdom Atomic Energy Authority (hereinafter referred to as "UKAEA") having their principal office at 11 Charles II Street, London SW1Y 4QP, hereinafter called the Parties.

WHEREAS

The United States Atomic Energy Commission (USAEC) and UKAEA have exchanged research and development information in the field of fast reactors under the terms of an "Arrangement" between them that became effective on 11 February 1965.

Certain responsibilities of the USAEC were transferred to ERDA on 18 January 1975, and the exchange of fast reactor information between the USAEC and UKAEA has continued as between ERDA and UKAEA since that date.

The "Arrangement" of 11 February 1965 has been terminated on 20 July 1976, with the expiration of the Agreement between the Governments of the United States and the United Kingdom for Co-operation on the Civil Uses of Atomic Energy signed on 15 June 1955, as amended.[1]

ERDA and UKAEA have a mutual interest in developing the Liquid Metal-cooled Fast Breeder Reactor (LMFBR) and in maintaining important roles in such development.

ERDA and UKAEA wish to continue close and long term co-operation in the field of LMFBR technology which, for purposes of this Agreement, includes research, development and demonstration.

ERDA and UKAEA recognize the need to establish procedures governing the protection of privileged or confidential information in connection with activities under this Agreement.

IT IS AGREED AS FOLLOWS

ARTICLE 1

The objective of cooperation under this Agreement is to establish, for the mutual benefit of the Parties, a reasonably balanced exchange of LMFBR technology. The areas and forms of cooperation are listed under Articles 2 and 3, respectively.

[1] TIAS 3321, 3359, 3608, 5397, 5693, 5829, 6050, 6966; 6 UST 2709, 3079; 7 UST 2057; 14 UST 1024; 15 UST 2128; 16 UST 888; 17 UST 894; 21 UST 2183.

ARTICLE 2

The areas of cooperation in LMFBR technology covered by this Agreement may include:

1. Reactor neutronics analysis and experimentation, to include reactor shielding and nuclear data.

2. Reactor safety.

3. Fuels and materials, to include structural, component, absorber and circuit materials.

4. Fuel cycle including fabrication, reprocessing, waste processing and storage.

5. Reactor and sodium systems and their associated components, to include component and system design, instrumentation and control, thermal hydraulics and structural analysis.

6. Sodium technology, to include detection of impurities, purification, control, component decontamination, sodium leaks and sodium fires.

7. Non-nuclear test facilities which support LMFBR programs.

8. Quality assurance and non-destructive practices.

9. Overall LMFBR programs of the US and UK.

10. Operation of LMFBR's.

11. Economic and environmental considerations.

12. Topics of interest to industry (design, construction experience, quality assurance).

Other areas of cooperation may be added by mutual agreement.

ARTICLE 3

Cooperation in accordance with this Agreement may include but is not limited to the following forms:

1. Exchange of scientists, engineers and other specialists for participation in agreed research, development, analysis, design and experimental activities conducted in scientific centers, laboratories, engineering offices and reactor facilities of each of the Parties or its contractors for agreed periods. Such exchanges of staff shall be in accordance with Article 9 of this Agreement.

2. Exchange of samples, materials, instruments and components for testing.

3. Exchange of scientific and technical information and results and methods of research and development.

4. The organization of seminars and other meetings on specific agreed topics concerning LMFBR technology in the areas listed in Article 2, in a manner agreed by the Joint Coordinating Committee (Article 4). Such seminars shall normally be held alternately in the US and UK for each topic.

5. Short visits by specialist teams or individuals to the LMFBR facilities of the other Party.

6. The use by one Party of the facilities owned or operated by the other Party. Such use of facilities shall be the subject of separate agreements between the Parties, and may be subject to commercial terms and conditions.

7. Joint projects in which the Parties agree to share the work and/or costs. Each such joint project shall be the subject of a separate agreement between the Parties.

Other specific forms of cooperation may be agreed by the Parties and approved by the Joint Coordinating Committee.

ARTICLE 4

1. To supervise the execution of this Agreement, a Joint ERDA/UKAEA Coordinating Committee in the field of Liquid Metal-cooled Fast Breeder Reactors shall be established. This Committee shall meet each year alternately in the US and UK, or at other agreed times and places. The Head of the Delegation of the Receiving Party shall act as Chairman during meetings of the Committee.

2. At its meetings, the Joint Coordinating Committee shall evaluate the status of cooperation under this Agreement. This evaluation shall include a comprehensive review of each Party's LMFBR program status and plans, an assessment of the balance of exchanges in the various areas of cooperation listed in Article 2, and a consideration of measures required to correct any imbalances. In addition, the Joint Coordinating Committee shall consider and act on any major new proposals for cooperation.

3. For periods between meetings of the Joint Coordinating Committee, each Party shall nominate one person to act on its behalf in all matters concerning cooperation under this Agreement.

4. Day to day management of the cooperation under this Agreement shall be carried out by correspondents or others designated by the persons nominated under paragraph 3 of this Article.

ARTICLE 5

1. Where it is decided a cooperative program or project under this Agreement should be subject to a formalized specific memorandum of agreement executed by both Parties, the specific agreement should cover all detailed provisions for implementing that agreement including such matters as patents, exchange of equipment and information disclosure specific to the particular program or project.

ARTICLE 6

1. General

The Parties support the widest possible dissemination of information provided or exchanged under this Agreement, subject to the need to protect proprietary information exchanged hereunder, and to the provisions of Article 8.

2. Use of Proprietary Information

A. Definitions as used in this Agreement:

(i) The term "information" means scientific or technical data, results or methods of research and development, and any other information intended to be provided or exchanged under this Agreement;

(ii) The term "proprietary information" means information which contains trade secrets or commercial or financial information which is privileged or confidential, and may only include such information which:

a) has been held in confidence by its owner;

b) is of a type which is customarily held in confidence by its owner;

c) has not been transmitted by the transmitting Party to other entities (including the receiving Party) except on the basis that it be held in confidence; and

d) is not otherwise available to the receiving Party from another source without restriction on its further dissemination.

B. Procedures

(i) A Party receiving proprietary information pursuant to this Agreement shall respect the privileged nature thereof. Any document which contains proprietary information shall be clearly marked with the following (or substantially similar) restrictive legend:

"This document contains proprietary information furnished in confidence under an Agreement dated _____ between the United States Energy Research and Development Administration and the United Kingdom Atomic Energy Authority and shall not be disseminated outside these

organizations, their contractors, licensees and the concerned departments and agencies of the governments of the US and UK without the prior approval of _____.

This notice shall be marked on any reproduction hereof, in whole or in part. These limitations shall automatically terminate when this information is disclosed by the owner without restriction."

(ii) Proprietary information received in confidence under this Agreement may be disseminated by the receiving Party to:

a) persons within or employed by the receiving Party, and concerned Government departments and Government agencies in the country of the receiving Party;

b) prime or subcontractors of the receiving Party located within the geographical limits of the receiving Party's nation, for use only within the framework of their contracts with the receiving Party in work relating to the subject matter of the proprietary information;

c) organizations licensed by the receiving Party in the field of development, design and construction of LMFBR's and their fuel for use only within the terms of such licenses.

provided that any proprietary information so disseminated shall be pursuant to an agreement of confidentiality and shall be marked with a restrictive legend substantially identical to that appearing in subparagraph 2.B(i) above.

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(iii) With the prior written consent of the Party providing proprietary information under this Agreement, the receiving Party may disseminate such proprietary information more widely than otherwise permitted in the foregoing subsection (ii). The Parties shall cooperate with each other in developing procedures for requesting and obtaining approval for such wider dissemination, and each Party will grant such approval to the extent permitted by its national policies, regulations and laws.

C. Each Party shall exercise its best efforts to ensure that proprietary information received by it under this Agreement is controlled as provided herein. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of this Article, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

D. Information arising from seminars and other meetings arranged under this Agreement and information arising from the attachments of staff, use of facilities and joint projects shall be treated by the Parties according to the principles specified in this Article; provided, however, no proprietary information orally communicated shall be subject to the limited disclosure requirements of this Agreement

unless the individual communicating such information places the recipient on notice as to the proprietary character of the information communicated.

E. Nothing contained in this Agreement shall preclude the use or dissemination of information received by a Party other than pursuant to this Agreement.

ARTICLE 7

Information transmitted by one Party to the other Party under this Agreement shall be accurate to the best knowledge and belief of the Transmitting Party, but the Transmitting Party does not warrant the suitability of the information transmitted for any particular use or application by the Receiving Party or by any third Party. Information developed jointly by the Parties shall be accurate to the best knowledge and belief of both Parties. Neither Party warrants the accuracy of the jointly developed information or its suitability for any particular use or application by either Party or by any third Party.

ARTICLE 8

1. With respect to any invention or discovery made or conceived in the course of or under this Agreement:

a. If made or conceived by personnel of one Party (the Assigning Party) or its contractors while assigned to the other Party (Recipient Party) or its contractors, in connection with exchanges of scientists, engineers and other specialists;

(1) The Recipient Party shall acquire all right, title and interest in and to any such invention or discovery in its own country and in third countries, subject to a non-exclusive, irrevocable, royalty-free license in all such countries to the Assigning Party, with the right to grant sublicenses, under any such invention or discovery and any patent application, patent or other protection relating thereto, for use in the production or utilization of special nuclear material or atomic energy.

(2) The Assigning Party shall acquire all right, title and interest in and to any such invention or discovery in its own country, subject to a non-exclusive, irrevocable, royalty-free license to the Recipient Party, with the right to grant sublicenses, under any such invention or discovery and any patent application, patent or other protection relating thereto, for use in the production or utilization of special nuclear material or atomic energy.

b. If made or conceived by a Party or its contractors as a direct result of employing information which has been communicated to it under this Agreement by the other Party or its contractors or communicated during seminars or other joint meetings, the Party making the invention shall acquire all right, title and interest in and to such invention or discovery in all countries, subject to a grant to the other Party of a royalty-free, non-exclusive, irrevocable license with the right to grant sublicenses in and to any such invention or discovery and any patent application, patent or other protection relating thereto, in all countries for use in the production or utilization of special nuclear materials or atomic energy.

c. With regard to other specific forms of cooperation, including loans or exchanges of materials, instruments and equipment for special joint research projects, the Parties shall provide for appropriate distribution of rights to inventions or discoveries resulting from such cooperation. In general, however, each Party should normally own the rights to such inventions or discoveries in its own country with a non-exclusive, irrevocable, royalty-free license to the other Party, and the rights to such inventions or discoveries in other countries should be agreed by the Parties on an equitable basis.

d. It is understood that after the European Patent Conventions have come into force, either Party may request a modification of this paragraph 1 for the purpose of according equivalent rights as provided in subparagraphs 1a.-c. above under the European Patent Conventions.

2. Neither Party shall discriminate against citizens of the country of the other Party with respect to granting any license or sublicense under any invention or discovery pursuant to paragraph 1 above. It is understood that the licensing policies and practices of each Party may be affected because of the rights of both Parties to grant licenses within a single jurisdiction. Accordingly, either Party may request, in regard to a single invention or discovery or class of inventions or discoveries, that the Parties consult in an effort to lessen or eliminate any detrimental effect that the parallel licensing authorities may have on the policies and practices of the Parties.

3. Each Party shall assume the responsibility to pay awards or compensation required to be paid to its own nationals according to its own laws.

ARTICLE 9

1. Whenever an exchange of staff is contemplated under this Agreement, each Party shall ensure that qualified staff are selected for attachment to the other Party.

2. Each such attachment of staff shall be the subject of a separate attachment agreement between the Parties.

3. Each Party shall be responsible for the salaries, insurance and allowances to be paid to its personnel.

4. Each Party shall pay for the travel and living expenses of its personnel while on attachment to the host Party unless otherwise agreed.

5. The host establishment shall arrange for comparable accommodations for the other Party's personnel and their families on a mutually agreeable reciprocal basis.

6. Each Party shall provide all necessary assistance to the attached staff (and their families) of the other Party as regards administrative formalities (travel arrangements, etc.).

7. The personnel of each Party shall conform to the general and special rules of work and safety regulations in force at the host establishment, or as agreed in separate attachment of staff agreements.

8. Liabilities incurred during attachment of staff shall be covered in separate attachment of staff agreements.

ARTICLE 10

The provisions of this Agreement shall not affect the rights or duties of the Parties hereto under other agreements or arrangements. This

Agreement also in no way precludes commercial firms or other legally constituted enterprises in each of the two countries from engaging in commercial dealings in accordance with the applicable laws of each country; nor does it preclude the Parties from engaging in activities with other Governments or persons. Moreover, it is expected that the present Agreement should facilitate industrial and commercial exchanges in the field of LMFBR between the firms of the countries of the Parties with a view to mutual benefits from such exchanges for both countries. UKAEA has funded and expects to continue to fund substantial development work on fast reactor technology. Use of the results of such technology by industrial organizations in the UK is governed by appropriate regulations and agreements involving UKAEA. Accordingly, UKAEA will seek to coordinate arrangements with UK industrial organizations involving such technology. ERDA shall act as the point of coordination for contracts and arrangements involving US commercial firms when such firms or enterprises act on behalf of the US Government under the terms of this Agreement. It is understood that all such contracts and arrangements shall conform with applicable laws and regulations under which each Party operates.

ARTICLE 11

Cooperation under this Agreement shall be in accordance with laws of the respective countries and the regulations of the respective Parties. All questions related to the Agreement arising during its term shall be settled by the Parties by mutual agreement.

ARTICLE 12

Except when otherwise specifically agreed at the time, all costs resulting from cooperation under this Agreement shall be borne by the Party that incurs them. It is understood that the ability of the Parties to carry out their obligations is subject to the availability of appropriated funds.

ARTICLE 13

1. This Agreement shall enter into force upon signature and, subject to paragraph 2 of this Article, shall continue for a five (5)-year period. This Agreement may be extended subject to agreement by the Parties following a review of accomplishments under the Agreement.

2. This Agreement may be terminated at any time at the discretion of either Party, upon six (6) months advance notification in writing by the Party seeking to terminate the Agreement. Such termination shall be without prejudice to the rights which may have accrued under this Agreement to either Party up to the date of such termination.

3. The Parties agree that all discussions, meetings, exchanges of documents or other acts of cooperation between them since the termination of the "Arrangement" of 11 February 1965, and prior to signature of this Agreement which, if they had occurred subsequent to the signature of this Agreement, would have been subject to this Agreement, shall be subject to the terms hereof.

4. In the event that, during the period of this Agreement, the nature of either party's LMFBR program should change substantially whether this be by substantial expansion, reduction, transformation or amalgamation of major elements with the LMFBR program of a third party, either Party shall have the right to request revisions in the scope and/or terms of this Agreement.

5. All joint efforts and experiments not completed at the termination of this Agreement shall be continued until their completion under the terms of this Agreement.

Done at Washington, D.C. this 20th day of September 1976.

FOR THE UNITED STATES
ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION

NAME: Eric S. Beckjord [1]

TITLE: Director
Division of Reactor Development
and Demonstration

FOR THE UNITED KINGDOM
ATOMIC ENERGY AUTHORITY

NAME: T. N. Marsham [2]

TITLE: Deputy Managing Director
The Reactor Group

[1] Eric S. Beckjord.
[2] T. N. Marsham.

[AMENDING AGREEMENT]

The Program Director for Nuclear Energy, Department of Energy, to the British Managing Director, Risley Nuclear Power Development Establishment

Department of Energy
Washington, D.C. 20545

AUG 14 1978

Dr. T. N. Marsham
Managing Director
Risley Nuclear Power Development
Establishment
UKAEA, Risley
Warrington WA3 6AT
England

Dear Dr. Marsham:

Further to the discussions in Washington on March 10 between our staffs regarding possible amendments to the ERDA/UKAEA LMFBR Agreement of September 20, 1976, I enclose our proposals which have been agreed to by interested Washington departments and agencies.

Recital

We feel it appropriate for the USDOE/UKAEA agreement to reflect the increasing international awareness of the dangers posed by the possible proliferation of nuclear weapons technology and of weapons-useable material.

Article 1

We consider it would be mutually profitable for USDOE and UKAEA to have a consideration of safeguards become an integral part of all appropriate cooperation in LMFBR development. In this connection, we note that both the UK and US have agreed, under Article 12 of the Nuclear Suppliers' Guidelines, to "...support the IAEA in increasing further the adequacy of safeguards in the light of technical developments..." Moreover, since our existing agreement foresees cooperation in LMFBR fuel cycle work, we each have an explicit obligation under Article 13 to encourage the design of sensitive equipment in such a way as to aid in the application of safeguards. Finally, both the US and UK are committed to entry into force of arrangements with the IAEA which will bring installations in our respective countries under IAEA safeguards in the near future.

By way of further clarification, we are here using the term "safeguards" to mean "international safeguards", i.e., measures to detect, and by the threat of detection to deter, the diversion of significant quantities of nuclear material from peaceful activities to the manufacture of nuclear weapons or other nuclear explosive devices or to other unauthorized purposes or purposes unknown. As you know, international safeguards do not include measures for the physical prevention of diversion or for the physical protection of nuclear materials or equipment against theft or sabotage, which are considered to be a separate category.

Article 2

Again in the interest of promoting non-proliferation, USDOE is very much interested in research and development of alternative breeder fuel cycles. Further, we would hope that information on thorium based fuels being developed by our Oak Ridge National Laboratory would be of interest to UKAEA.

Of course, our proposals are in no way meant to alter our understanding of the original intent of the Parties to the Agreement to establish, for their mutual benefit and by their mutual consent, a reasonably balanced exchange of LMFBR technology.

If the enclosed proposed Addendum is acceptable, please indicate your agreement by signing and dating below. The Addendum will become a part of the Agreement upon our receipt of the countersigned copy of this letter.

Sincerely,

George W. Cunningham
~~Acting~~ Program Director
for Nuclear Energy

Enclosure:
Proposed Addendum

The United Kingdom
Atomic Energy Authority

By: J Moore [1]

Date: 18 August 1978

cc: w/encl: Dr. John Gaunt, British Embassy

[1] J. Moore.

ADDENDUM TO THE AGREEMENT CONCLUDED ON SEPTEMBER 20, 1976 BETWEEN THE UNITED STATES ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AND THE UNITED KINGDOM ATOMIC ENERGY AUTHORITY IN THE FIELD OF LIQUID METAL-COOLED FAST BREEDER REACTORS

1. Recital. Add following paragraph two:

"On October 1, 1977, all the functions vested by law in ERDA were transferred to the United States Department of Energy (USDOE). Henceforth, all references in this Agreement to ERDA shall be read as USDOE."

2. Recital. Change paragraph four to read:

"USDOE and UKAEA have a mutual interest in developing the Liquid Metal-cooled Fast Breeder Reactor (LMFBR) and in maintaining important roles in such development, taking cognizance of the conclusions that may be reached by the International Fuel Cycle Evaluation for restraining the proliferation of nuclear weapons."

3. Article 1. Add second paragraph:

"In the course of implementing this Agreement, the Parties may exchange safeguards technology as applicable to the areas of cooperation listed in Article 2."

4. Article 2. Change paragraph three to read:

"3. Fuels and materials, to include structural, component, absorber and circuit materials, and fuels which would tend to reduce or eliminate the production of material directly useable in nuclear weapons."

5. Article 2. Change paragraph four to read:

"4. Fuel cycle, including fabrication, reprocessing, waste processing, storage, and fuel cycles which may be resistant to the diversion of material for the production of nuclear weapons."

The British Director, Fast Reactor Development Directorate, Risley Nuclear Power Development Establishment, to the Program Director for Nuclear Energy, Department of Energy

Risley Nuclear Power
Development Establishment

United Kingdom Atomic Energy Authority
(Northern Division)
Risley
Warrington WA3 6AT

Telex 629301
Telephone Warrington 0925 31244
Extension 3019

Risley

Nuclear Power Development Establishment

18 August 1978

Dr G W Cunningham
US DOE
Germantown
Washington DC 20545
USA

Dear Dr Cunningham

Many thanks for your letter of 14 August addressed to Dr Marsham.

Dr Marsham is on summer holiday at present so I have countersigned your letter thereby indicating the agreement of the UKAEA to the proposed addendum to the Agreement of 20 September 1976 between US DOE and UKAEA in the Field of Liquid Metal Cooled Fast Breeder Reactors.

I note that it will take effect upon receipt of the countersigned letter by the US DOE.

Yours sincerely

J MOORE
Director/Fast Reactor Development Directorate

[EXTENDING AGREEMENT]

The British Head, Technical Secretariat, Risley Nuclear Power Development Establishment, to the Director, Office of Technical Cooperation, Department of Energy

RISLEY NUCLEAR POWER DEVELOPMENT ESTABLISHMENT
UNITED KINGDOM ATOMIC ENERGY AUTHORITY
RISLEY, WARRINGTON, CHESHIRE WA3 6AT.

Risley

UKAEA NORTHERN DIVISION

Date: 30 April 1981

Dr. J. Vanderryn
Director
Office of Technical Co-operation
US DOE
Washington DC 20585
USA

DEAR DR. VANDERRYN

The Agreement signed on 20 September 1976 between the United Kingdom Atomic Energy Authority and the United States Energy Research & Development Administration, and continued with the United States Department of Energy in the field of Liquid Metal-Cooled Fast Breeder Reactors is due to terminate in September 1981.

At the annual meeting in December 1980 of the Joint Co-ordinating Committee established under Article 4 of this Agreement both sides agreed that the co-operation between our two organisations had been of considerable value to both parties and that early in 1981 steps should be taken to renew the agreement for another 5 years without modification.

I therefore have pleasure in proposing on behalf of the UKAEA that this letter and your reply agreeing to the extension on behalf of USDOE should constitute an agreement to extend the LMFBR Agreement until 20 September 1986.

Yours sincerely

G A WELCH
G A Welch

Head, Technical Secretariat

The Acting Assistant Secretary for International Affairs, Department of Energy, to the Head, Technical Secretariat, United Kingdom Atomic Energy Authority

August 12, 1981

DR. G. A. WELCH
Head, Technical Secretariat
United Kingdom Atomic Energy Authority
Risley, Warrington, Cheshire WA3 6AT
United Kingdom

DEAR DR. WELCH:

I am pleased to inform you that the United States Department of Energy considers that your letter of April 30, 1981, together with this reply, constitute an agreement to extend in force until September 20, 1986 the existing Agreement between the United States Department of Energy and the United Kingdom Atomic Energy Authority in the field of Liquid Metal-Cooled Fast Breeder Reactors signed on September 20, 1976, as amended on August 18, 1978.

We look forward to continued and expanding cooperation in this important field.

Sincerely,

PETER BORRÉ

Peter Borré
Acting Assistant Secretary
for International Affairs

TIAS 10213

NETHERLANDS

Defense Equipment

Memorandum of understanding signed at Washington and The Hague July 25 and August 24, 1978;
Entered into force August 24, 1978.

PREAMBLE

The Government of the United States of America and the Government of the Kingdom of the Netherlands, duly represented by their Ministers of Defense:

Intending to increase their respective defense capabilities through more efficient cooperation in the fields of research and development, production and procurement in order to:

—Make the most cost-effective and rational use of the resources available for defense,
—Ensure the widest possible use of standard or interoperable equipment,
—Develop and maintain an advanced industrial and technological capability for the North Atlantic Alliance, and particularly with respect to the parties to this Memorandum of Understanding (MOU), and

Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment, and

Recalling that they had agreed, as members of the Alliance, to maximum cooperation in procurement as set forth in Annex A to NATO Document C-M(73)51 (revised), dated 20 August 1973,

Have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding sets out the guiding principles governing mutual cooperation in research and development, production and procurement of conventional defense equipment.

The two Governments conclude this MOU to strengthen the North Atlantic Alliance. In so doing, the Governments are fully aware that the Independent European Program Group (IEPG) wants to enhance equipment collaboration by more comprehensive and system-

atic arrangements. They therefore agree that in the event of a possible conflict between agreements entered into between the IEPG and the Government of the United States, and this MOU, the parties hereto will consult with a view to amending this MOU.

The two Governments further agree that this MOU should be viewed in the larger context of the cooperation between Europe and North America within the Alliance and that this cooperation will be carried out pursuant to the Mutual Defense Assistance Agreement between the Government of the United States of America and the Government of the Kingdom of the Netherlands, signed 27 January 1950.[1]

[1] TIAS 2015; 1 UST 88.

ARTICLE I

Principles Governing Reciprocal Defense Cooperation

1. Both Governments intend to facilitate the mutual flow of defense procurement, taking into consideration relative technological levels of such procurement, and consistent with their national policies. This facilitation shall be sought through the provision of opportunities to compete for procurements of defense equipment and services as well as through the coproduction of defense equipment and defense R&D cooperation.

2. This MOU is intended to cover areas in which possible bilateral cooperation could be achieved in research and development, production and procurement of conventional defense equipment, complementing the work of the Conference of National Armament Directors (CNAD) and the Independent European Program Group (IEPG).

3. The two Governments will, consistent with their relevant laws and regulations, give the fullest consideration to all requests for cooperative R&D, and to all requests for production and procurement which are intended to enhance standardization and/or interoperability within the Alliance.

4. In the interests of standardization and the effective utilization of scarce resources, the two Governments shall, to the extent possible, adopt qualified defense items that have been developed or produced in the other country to meet their requirements. Defense items or services are those items or services which may be procured utilizing appropriated funds of the U.S. Department of Defense or budgeted funds of the Netherlands Ministry of Defense.

5. The two Governments shall mutually determine the counting procedures to be laid down in an Annex to this MOU that will apply to all defense items and defense services purchased by them directly or through their relevant industries under this MOU.

6. Each Government shall from time to time notify the other Government of defense items that may not be acquired by the notifying Government from other than domestic sources, as well as those defense items that may be particularly suitable for acquisition by the other Government.

7. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense acquisition organizations to facilitate achievement of the aims of this MOU.

8. Competitive contracting procedures shall normally be used in acquiring items of defense equipment developed or produced in each other's country for use by either country's defense establishment.

9. The detailed implementing procedures, to be agreed, will, consistent with and to the extent permitted by national laws and regulations, incorporate the following:

a. Offers or proposals will be evaluated without applying price differentials under buy national laws and regulations and without applying the costs of import duties:

b. Full consideration will be given to all qualified industrial and/or governmental resources in each other's country;

c. Offers or proposals will be required to satisfy requirements of the purchasing Government for performance, quality, delivery and costs.

10. Both Governments will review items submitted as candidates for respective requirements. They will indicate requirements and proposed purchases in a timely fashion to ensure adequate time for their respective industries to qualify for eligibility and submit a bid or proposal.

11. Each Government will ensure that the technical data packages (TDP's) made available under this MOU are not used for any purpose other than for the purpose of bidding on, and performing, a prospective defense contract without the prior agreement of those owning or controlling proprietary rights and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDP's be transferred to any third country or any other transferee without the prior written consent of the originating Government.

12. Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries or other owners of such rights.

13. Arrangements and procedures will, at the request of the purchasing government, be established concerning follow-on logistic support for items of defense equipment, purchased pursuant to this MOU. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

ARTICLE II

Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this MOU and the terms of reference for a Netherlands-U.S. Committee for Procurement Cooperation.

2. The Under Secretary of Defense for Research and Engineering, in cooperation with the Assistant Secretary of Defense for International Security Affairs, the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, the Director, Defense Security Assistance Agency, and other appropriate Department of Defense officials, will be the responsible authority in the United States Government for the development of implementing procedures under this MOU.

3. The Director General for Materiel in the Ministry of Defense, in cooperation with other appropriate government authorities, will be the responsible authority of the Government of the Netherlands for the development of the implementing procedures under this MOU.

ARTICLE III

Industry Participation

1. Each Government will be responsible for calling to the attention of the relevant industries within its territory the basic understanding of this MOU, together with appropriate implementing guidance. Both Governments will take all necessary steps so that the industries comply with the regulations pertaining to security and to safeguarding classified information.

2. Implementation of this MOU will involve full industrial participation. Accordingly, the Governments will arrange to inform their respective procurement and requirements offices concerning the principles and objectives of this MOU. However, primary responsibility for finding business opportunities in areas of research and development and production shall rest with the industries in each nation.

ARTICLE IV

Security

To the extent that any items, plans, specifications or information furnished in connection with the specific implementation of this MOU are classified by either Government for security purposes, the other Government shall maintain a similar classification and employ all measures necessary to preserve such security equivalent to those measures employed by the classifying Government throughout the period during which the classifying Government may maintain such classifications.

ARTICLE V

Administration

1. The Netherlands-U.S. Committee for Procurement Cooperation, referred to in Article II above, will meet as agreed or at the request of either Government to review progress in implementing the MOU. They will discuss research and development, production and procurement needs of each nation and the likely areas of cooperation; agree to the basis of, and keep under review, the financial statement referred to below; and consider any other matters relevant to the MOU.

2. Each Government will designate points of contact at the Ministry of Defense level and in each purchasing service/agency under the Ministries of Defense.

3. An annual United States-Netherlands statement of the current balance, and long-term trends, of R&D cooperation and purchases between the two nations will be prepared on a basis to be mutually agreed. Such statement will take account of United States-Netherlands purchases of defense equipment and services and related offset agreements effected in the years from 1973 onwards and will be periodically reviewed.

ARTICLE VI

Annexes

Annexes negotiated by the responsible officials and approved by the appropriate Government authorities will be incorporated in this MOU. [1]

ARTICLE VII

Duration

1. This MOU will remain in effect for a ten-year period and will be extended for successive five-year periods, unless the Governments mutually decide otherwise.

2. If, however, either Government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the Parties, any contract entered into consistent with the terms of this MOU shall continue in effect, unless the contract is terminated in accordance with its own terms.

3. The Parties hereto agree that, for the purposes of this MOU, references to the Kingdom of the Netherlands shall apply only to its territory in Europe.

ARTICLE VIII

Implementation

This MOU will come into effect on the date of the last signature.

For the Government of the Kingdom of the Netherlands
The Minister of Defense

[2]

Date 24 AUG. 1978

For the Government of the United States of America
The Secretary of Defense

[3]

Harold Brown

Date JUL 25 1978

[1] Not printed.
[2] Willem Scholten.
[3] Harold Brown.

NORWAY

Defense Equipment

Memorandum of understanding signed May 19, 1978;
Entered into force May 19, 1978.

Memorandum of Understanding

between the

Government of Norway

and the

Government of the United States of America

concerning the

Principles Governing Mutual Cooperation

in the

Research and Development, Production and Procurement of Defense Equipment

PREAMBLE

The Government of the United States of America and the Government of Norway hereinafter referred to as the Governments:

- o Intending to increase their respective defense capabilities through more efficient cooperation in the field of research and development, production and procurement of defense equipment, in order to:
  - Make the most cost-effective and rational use of the funds allocated to defense to the extent permitted by their national policies; and
  - Promote the widest possible use of standard or interoperable equipment; and
  - Develop and maintain an advanced technological capability for the North Atlantic Alliance, and particularly with respect to the parties to this Agreement;
- o Noting that no general agreement covers harmonization of mutual procurements, although specific offset agreements have existed between them in the past; and
- o Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment

have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding (MOU) sets out the guiding principles government mutual cooperation in defense equipment research and development, production and procurement.

The Government of the United States of America and the Government of Norway conclude this Memorandum of Understanding to strengthen the North Atlantic Alliance. In so doing, the Governments are fully aware that the Independent European Program Group (IEPG) wants to enhance equipment collaboration by more comprehensive and systematic arrangements among the individual member nations.

The two Governments agree that this Memorandum of Understanding should be incorporated in the larger context of the cooperation between Europe and North America within the Alliance.

All agreements or the relevant provisions of such agreements between the Independent European Program Group (IEPG) and the United States of America shall take precedence over this Memorandum of Understanding, assuming Norway is a party to such agreements.

ARTICLE I

Principles Governing Reciprocal Defense Cooperation

1. Both Governments intend to achieve and maintain a long-term equitable balance in their exchanges, in terms of the value of contracts and technological levels, to the maximum practicable extent consistent with their national policies. Equitable balance, in principle, shall be achieved when the two Governments have exhausted all means at their disposal to maximize defense R&D cooperation and reciprocal procurement to the extent permitted by the size and nature of each country's technological and industrial base.

2. This agreement is intended to cover areas in which possible bilateral cooperation could be achieved in conventional defense equipment research and development, production and procurement, complementing the work of the Conference of National Armament Directors (CNAD) and the Independent European Program Group (IEPG).

3. The two Governments will, consistent with the laws, regulations, and practices having the force of law of each Government, give full consideration to all requests for cooperative R&D, and to all requests for production and procurement which are intended to maximize Alliance standardization and/or interoperability.

4. The two Governments shall, in the spirit of cooperation, mutually determine the counting procedures that will apply to all items under this agreement (and associated services included in a contract) purchased either directly by the two Governments or through their relevant industries.

5. In the interests of standardization and the effective utilization of scarce resources, the two Governments shall, if possible, select qualified defense items that have been developed and produced in the other country to meet their requirements in accordance with the procedures of paragraph 9 below.

6. Each Government may propose to the other any particular item of equipment that might be suitable for use by the other Government. Indicative lists are provided in the annexes.

7. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense procurement organizations to facilitate achievement of the aims described in paragraph 5.

8. Barriers to procurement or coproduction of an item of defense equipment that has been developed in the other country shall be removed, insofar as laws and regulations permit. This includes the removal of customs duties and other discriminatory levies as well as the waiver of protectionist provisions.

9. Normal competitive contracting procedures shall be used in acquiring items of conventional defense equipment developed in each other's country for use by either country's defense establishment.

10. Full consideration will be given to all qualified industrial and/or Government sources in each other's country consistent with the national procurement policy and criteria. It is therefore understood that items offered shall satisfy requirements for performance, quality, delivery and cost.

11. Both Governments will review items submitted as candidates for respective requirements. They will indicate requirements and proposed purchases in a timely fashion to ensure adequate time for their respective industries to qualify for eligibility and submit a bid or proposal.

12. Each Government will ensure that the technical data packages (TDPs) made available under this MOU are not used for any purpose other than for the purpose of bidding on, and performing, a prospective defense contract without the prior agreement with those owning or controlling proprietary rights and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDPs be transferred to any third country or any other transferee without the prior written consent of the originating Government.

13. Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries.

14. Arrangements and procedures will be established concerning follow-on logistic support for items of defense equipment covered by this Memorandum of Understanding. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

ARTICLE II

Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this Memorandum of Understanding. Terms of reference will be proposed for a Norwegian-American Committee for Reciprocal Procurement, including rules governing its work. The implementing procedures under this Memorandum of Understanding shall be an integral part thereof.

2. The Under Secretary of Defense for Research and Engineering, in coordination with the Assistant Secretary of Defense for International Security Affairs, the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, the Director, Defense Security Assistance Agency, and other appropriate Department of Defense officials, will be the responsible authority in the United States Government for the development of implementing procedures under this Memorandum of Understanding.

3. The Director General of Armaments in the Ministry of Defense will be the responsible authority of the Government of Norway for any matter relating to the procedures for implementing this Memorandum of Understanding.

ARTICLE III

Industry Participation

1. Each Government will be responsible for calling to the attention of the relevant industries within its country the basic understanding of this Memorandum of Understanding, together with appropriate implementing guidance. Both Governments will take all necessary steps so that the industries comply with the regulations pertaining to security and to safeguarding classified information.

2. Implementation of this Memorandum of Understanding will involve full industrial participation. Accordingly, the Governments will arrange to inform their respective procurement and requirements offices concerning the principles and objectives of this Memorandum of Understanding. However, primary responsibility for finding business opportunities in areas of research and development and production shall rest with the industrial participants of each country.

ARTICLE IV

Security

1. To the extent that any items, plans, specifications or information furnished in connection with the specific implementation of this Memorandum of Understanding are classified by either Government for security purposes, the other Government shall maintain a similar classification and employ measures necessary to preserve such security equivalent to those measures employed by the classifying Government throughout the period during which the classifying Government may maintain such classification.

2. The operating procedures for the implementation of the General Security of Information Agreement dated 26 February 1970[1] between the United States Department of Defense and the Norwegian Ministry of Defense apply to activities under this Memorandum of Understanding.

ARTICLE V

Duration

1. This agreement will remain in effect for a ten-year period following its signing, unless otherwise agreed by both Governments.

2. If, however, either Government considers it necessary for compelling national reasons to discontinue its participation under this Memorandum of Understanding before the end of the ten-year period, written notification of its intention will be given to the other Government six months in advance of the effective date of discontinuance. Such notification of intent would be a matter of immediate consultation with the other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the Memorandum of Understanding may be terminated by the parties, any contract entered into consistent with the terms of this agreement shall continue in effect, unless the contract is terminated in accordance with its own terms.

ARTICLE VI

Administration

1. Each Government will designate points of contact at the Ministry of Defense level and in each purchasing service/agency.

[1] TIAS 6836; 21 UST 462.

2. Government representatives will meet as agreed or at the request of either Government to review progress in implementing the Memorandum of Understanding. They will discuss development, production and procurement needs of each country and the likely areas of cooperation; agree to the basis of, and keep under review, the financial statement referred to below; and consider any other matters relevant to the Memorandum of Understanding.

3. An annual United States/Norway Statement of the current balance, and long-term trends, of R&D cooperation and purchases between the two countries will be prepared on a basis to be mutually agreed. Such statement will take account of any United States-Norway offset agreements in force when the Memorandum of Understanding was signed, and will be reviewed during the meetings referred to in paragraph 2 above.

ARTICLE VII

Annexes

Annexes negotiated by the responsible offices and approved by the appropriate Government authorities will be incorporated in this Memorandum of Understanding and made an integral part thereof.[1]

ARTICLE VIII

Implementation

1. The arrangements contained in this Memorandum of Understanding represent the understanding reached between the Government of the United States of America and the Government of Norway upon the matters referred to herein. Each Government must mutually agree to any amendment of this Memorandum of Understanding.

2. This agreement, in two original texts in the Norwegian and English languages, both texts being equally authentic, will come into effect at the date signed by both Governments.

For the Government of Norway
The Minister of Defense

[2]

Date MAY 19 1978

For the United States Government
The Secretary of Defense

[3]

[1] Not printed.
[2] Rolf Hansen.
[3] Harold Brown.

Memorandum
vedtatt av
Norges regjering
og
Amerikas Forente Staters regjering
vedrørende
prinsippene for gjensidig samarbeid
når det gjelder
forskning og utvikling, produksjon
og anskaffelse av forsvarsmateriell

INNLEDNING

Amerikas Forente Staters regjering og Norges regjering, heretter kalt regjeringene:

Som akter å øke sitt forsvarspotensial gjennom mere effektivt samarbeid når det gjelder forskning og utvikling, produksjon og anskaffelse av forsvarsmateriell, med sikte på å:

- Gjøre den mest kostnadseffektive og rasjonelle bruk av de midler som er bevilget til forsvaret i den utstrekning dette er i samsvar med deres nasjonale politikk; og
- Fremme den bredest mulige bruk av standard eller gjensidig utbyttbart materiell; og
- Utvikle og opprettholde et avansert teknisk potensial for den Nordatlantiske Allianse, og særlig når det gjelder partene i denne avtale;

Som merker seg at ingen overenskomst dekker harmonisering av felles anskaffelser, selv om spesielle avtaler på dette felt har eksistert mellom dem tidligere; og

Som søker å bedre den aktuelle situasjon og å styrke sitt militære potensial og sin økonomiske stilling gjennom ytterligere anskaffelser av standard eller gjensidig utbyttbart materiell

har vedtatt dette Memorandum med ovennevnte målsetting.

Dette Memorandum angir de prinsipielle retningslinjer for det gjensidige samarbeid når det gjelder forskning og utvikling, produksjon og anskaffelse av forsvarsmateriell. Amerikas Forente Staters regjering og Norges regjering vedtar dette Memorandum for å styrke den Nordatlantiske Allianse. De er herunder fullt oppmerksom på at Independent European Program Group (IEPG) (Den uavhengige europeiske programgruppe) ønsker å styrke materiellsamarbeidet gjennom mere omfattende og systematiske ordninger mellom de enkelte medlemsnasjoner.

De to regjeringer er enige om at dette Memorandum bør innarbeides i det større opplegg for samarbeidet mellom Europa og Nord-Amerika innenfor Alliansen.

Alle avtaler eller de relevante bestemmelser i slike avtaler mellom Independent European Program Group (IEPG) og Amerikas Forente Stater skal gå foran dette Memorandum, forutsatt at Norge er part i slike avtaler.

ARTIKKEL I

Prinsipper til regulering av gjensidig forsvarssamarbeid

1. Begge regjeringer akter å oppnå og opprettholde en langsiktig rimelig balanse i utvekslingene, uttrykt i kontraktsverdier og teknologisk nivå, i den maksimalt praktisk gjennomførbare utstrekning i samsvar med deres nasjonale politiske retningslinjer. Rimelig balanse skal, i prinsippet, være oppnådd når de to regjeringer har utnyttet alle til rådighet stående midler til å gjøre forsknings- og utviklingssamarbeidet (R&D) og de gjensidige anskaffelser så omfattende som arten og omfanget av hvert lands teknologiske og industrielle grunnlag gir mulighet for.

2. Denne avtale har til formål å dekke områder hvor mulig bilateralt samarbeid kan oppnås når det gjelder forskning og utvikling, produksjon og anskaffelse av konvensjonelt forsvarsmateriell som en supplering av arbeidet til Conference of National Armament Directors (Konferansen av nasjonale materielldirektører) (CNAD) og Independent European Program Group (IEPG).

3. De to regjeringer vil, i samsvar med hvert lands lover, forskrifter og den praksis som har lovs kraft, grundig vurdere alle anmodninger om samarbeid innenfor R&D, og alle anmodninger om produksjon og anskaffelser som tar sikte på størst mulig standardisering og/eller gjensidig utbyttbarhet innen Alliansen.

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4. De to regjeringer skal, i samarbeidets ånd, gjensidig fastsette de regler for mellomregnskap som skal gjelde for alle ytelser under denne avtale (herunder tilknyttede tjenester som inngår i en kontrakt) enten ved direkte regjeringsanskaffelser eller gjennom industrisamarbeid.

5. For å fremme standardisering og en effektiv utnyttelse av knappe ressurser, skal de to regjeringer, om mulig, utvelge egnet forsvarsmateriell utviklet og produsert i det ene av landene, til dekning av begge lands behov. Punkt 9 nedenfor kommer herunder til anvendelse.

6. Hver regjering kan overfor den annen foreslå særskilt forsvarsmateriell som antas å kunne være egnet til bruk av den annen part. Vedleggene inneholder indikative lister over slikt materiell.

7. Begge regjeringer vil sørge for hensiktsmessige politiske retningslinjer og administrative prosedyrer innenfor deres respektive organisasjoner for forsvarsanskaffelser for å lette oppnåelsen av det i paragraf 5 beskrevne mål.

8. Hindringer for anskaffelse eller samproduksjon av forsvarsmateriell som er blitt utviklet i det annet land skal fjernes, i den utstrekning lover og forskrifter gir adgang til det. Dette omfatter opphevelse av tollavgifter og andre diskriminerende avgifter såvel som frafallelse av proteksjonistiske bestemmelser.

9. Normale kontraktsprosedyrer basert på konkurransedyktighet skal benyttes ved ervervelse av konvensjonelt forsvarsmateriell utviklet i det ene land til bruk for begge lands forsvar.

10. Alle kvalifiserte industrielle og/eller offentlige leveringskilder i begge land vil bli gjenstand for grundig vurdering i samsvar med nasjonal anskaffelsespolitikk og nasjonale anskaffelseskriterier. Det er derfor enighet om at tilbudt materiell skal fylle kravene til yteevne, kvalitet, leveringsfrister og kostnader.

11. Begge regjeringer vil vurdere tilbudt materiell med henblikk på muligheten for dekning av respektive behov. De vil angi behovene og foreslåtte innkjøp i god tid for å sikre tilstrekkelig tid for deres respektive industrier til å kvalifisere seg for innsendelse av anbud eller forslag.

12. Hver regjering vil sikre at de tegninger og spesifikasjoner (TDPs) som blir gjort tilgjengelige i henhold til dette Memorandum ikke brukes for annet formål enn for å gi anbud på og gjennomføre en eventuell forsvarskontrakt uten forutgående avtale med dem som har eller kontrollerer eiendomsretten og at full beskyttelse skal gis slik eiendomsrett, og slike priviligerte, beskyttede eller graderte data og informasjoner som de inneholder. Ikke under noen omstendigheter skal TDPs overføres til et tredje land eller til en annen mottaker uten skriftlig forhåndssamtykke av opphavsregjeringen.

13. Begge regjeringer vil gjøre sitt beste for å bistå ved forhandlinger om lisenser, royalties og utveksling av tekniske opplysninger med deres respektive industrier.

14. Ordninger og prosedyrer vil bli fastsatt for etterforsyningsstøtte til forsvarsmateriell som kommer inn under dette Memorandum. Begge regjeringer vil stille sitt forsvars forsyningstjeneste og ressurser til rådighet for dette formål når det kreves og etter avtale.

ARTIKKEL II

Gjennomføringsprosedyrer

1. Representanter for de to regjeringer vil bli oppnevnt for i detalj å fastsette prosedyrene for gjennomføring av dette Memorandum. Det vil bli utarbeidet mandat for en norsk-amerikansk komité for gjensidige anskaffelser, herunder regler for dens arbeid. Gjennomføringsprosedyrene skal være en integrerende del av dette Memorandum.

2. Under Secretary of Defense for Research and Engineering, i koordinering med Assistant Secretary of Defense for International Security Affairs, Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, Director Defense Security Assistance Agency, og andre berørte tjenestemenn i Department of Defense vil i De Forente Staters regjering ha ansvaret for utarbeidelsen av gjennomføringsprosedyrer under dette Memorandum.

3. Sjefen for Materiellavdelingen i Forsvarsdepartementet vil være den norske regjerings ansvarlige myndighet i ethvert spørsmål som gjelder gjennomføringsprosedyrene under dette Memorandum.

ARTIKKEL III

Industriens deltakelse

1. Regjeringene vil ha ansvaret for å gjøre berørte industrier innen deres land kjent med de grunnleggende forutsetninger for dette Memorandum, og for å gi dem den nødvendige veiledning for gjennomføringen. Regjeringene vil treffe alle nødvendige tiltak for å sikre at industrien overholder sikkerhetsforskrifter og forskrifter vedrørende beskyttelse av graderte opplysninger.

2. Gjennomføring av dette Memorandum forutsetter full deltakelse fra industrien. Med dette for øyet vil regjeringene gjøre de respektive anskaffelses- og forsyningsmyndigheter kjent med dette Memorandums prinsipper og målsetting. Imidlertid skal hovedansvaret for å finne frem til forretningsmuligheter på områdene forskning, utvikling og produksjon påligge industrien i de to land.

ARTIKKEL IV

Sikkerhet

1. Når materiell, planer, spesifikasjoner eller opplysninger særskilt tilveiebragt i forbindelse med gjennomføring av dette Memorandum er gradert av den ene regjering av sikkerhetsgrunner, skal den annen regjering opprettholde en tilsvarende gradering og treffe nødvendige forholdsregler for opprettholdelse av sikkerheten tilsvarende de forholdsregler som anvendes av den regjering som har gitt graderingen og for det tidsrom sikkerhetsgraden vil bli opprettholdt av denne.

2. Gjennomføringsprosedyrene for General Security of Information Agreement (Den generelle sikkerhetsavtale) av 26 februar 1970 mellom De Forente Staters Department of Defense og det norske Forsvarsdepartement får anvendelse på virksomheter under dette Memorandum.

ARTIKKEL V

Varighet

1. Denne avtale skal gjelde for en tiårsperiode etter undertegningen, med mindre de to regjeringer avtaler noe annet.

2. Hvis imidlertid en av regjeringene av tvingende nasjonale årsaker anser det nødvendig å avbryte sitt samarbeid under dette Memorandum før utløpet av tiårsperioden, skal den annen part underrettes skriftlig herom seks måneder før den effektive avbruddsdato. Slik underretning vil gi foranledning til omgående konsultasjoner med den annen regjering for å gjøre det mulig for regjeringene fullt ut å vurdere konsekvensene av et slikt avbrudd og, i samarbeidets ånd, å treffe de nødvendige tiltak for å bøte på de problemer som av den grunn måtte oppstå. I denne forbindelse, og selv om dette Memorandum blir bragt til opphør av partene, skal eventuelle kontrakter som er inngått i samsvar med vilkårene i denne avtale gjelde uforandret, med mindre de blir bragt til opphør i kraft av deres egne bestemmelser.

ARTIKKEL VI

Administrasjon

1. Hver regjering vil utpeke kontaktpunkter på Forsvarsdepartementsnivå og i anskaffelses- og forsyningsorganene.

2. Regjeringsrepresentanter vil komme sammen etter avtale aller på anmodning av en av regjeringene for å drøfte fremdriften i arbeidet under dette Memorandum, herunder å drøfte utviklings-, produksjons- og anskaffelsesbehov i begge land og mulige samarbeidsområder; avtale grunnlaget for å føre kontroll med det finansielle mellomregnskap som er nevnt nedenfor og drøfte eventuelle andre aktuelle spørsmål i forbindelse med dette Memorandum.

3. Et årlig amerikansk/norsk mellomregnskap som viser den aktuelle balanse mellom de to lands gjensidige ytelser ved forsknings- og utviklingssamarbeid og ved innkjøp, samt en prognose over tendensene på lengre sikt vil bli utarbeidet etter regler som partene blir enige om. I mellomregnskapet vil det bli tatt hensyn til eventuelle kompensasjonsavtaler mellom De Forente Stater/Norge som var i kraft ved undertegnelsen av dette Memorandum. Dette spørsmål vil bli avklaret under de møter som er omtalt i paragraf 2 ovenfor.

ARTIKKEL VII

Vedlegg

Vedlegg som er utarbeidet av de ansvarlige instanser og godkjent av vedkommende regjeringsmyndigheter, vil inngå i denne avtale som en integrerende del av den.

ARTIKKEL VIII

Gjennomforing

1. De ordninger som inneholdes i dette Memorandum representerer

den avtale som er nådd mellom Amerikas Forente Staters regjering og Norges regjering vedrørende de spørsmål som er omhandlet heri. Eventuelle endringer i dette Memorandum kan bare foretas etter gjensidig overenskomst mellom regjeringene.

2. Denne avtale, i to originale tekster på norsk og engelsk, der begge tekster har samme gyldighet, vil tre i kraft på datoen for begge regjeringers undertegning.

For Norges regjering
Forsvarsdepartementet

Dato 19. MAI 1978

For De Forente Staters regjering
Forsvarsdepartementet

Harold Brown

Dato 19. MAI 1978

DENMARK

Defense Equipment

Memorandum of understanding signed at Copenhagen and Washington January 2 and 30, 1980;
Entered into force January 30, 1980.

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

GOVERNMENT OF THE KINGDOM OF DENMARK

AND THE

GOVERNMENT OF THE UNITED STATES OF AMERICA

CONCERNING THE PRINCIPLES GOVERNING MUTUAL COOPERATION

IN THE RESEARCH, DEVELOPMENT, PRODUCTION, PROCUREMENT AND LOGISTIC SUPPORT

OF DEFENSE EQUIPMENT

The Government of the United States of America and the Kingdom of Denmark duly represented by their Ministers of Defense:

Intending to increase their respective defense capabilities through more efficient cooperation in the fields of research, development, production, procurement and logistic support in order to:

- Make the most cost-effective and rational use of the resources available for defense,

- Ensure the widest possible use of standard or interoperable equipment,

- Develop and maintain an advanced industrial and technological capability for the North Atlantic Alliance, and particularly with respect to the parties to this Memorandum of Understanding (MOU), and

Seeking to improve the present situation and to strengthen their military capability and economic position through the further acquisition of standard or interoperable equipment,

Have entered into this Memorandum of Understanding in order to achieve the above aims.

This Memorandum of Understanding sets out the guiding principles governing mutual cooperation in research, development, production, procurement and logistic support of conventional defense equipment.

The two Governments conclude this MOU to strengthen the North Atlantic Alliance. In so doing, the Governments are fully aware that the Independent European Program Group (IEPG) wants to enhance equipment collaboration by more comprehensive and systematic arrangements. They therefore agree that in the event of a possible conflict between agreements entered into between the IEPG and the Government of the United States, and this MOU, the parties hereto will consult with a view to amending this MOU.

The two Governments further agree that this MOU should be viewed in the larger context of the cooperation between Europe and North America within the Alliance.

ARTICLE I

Principles Governing Mutual Defense Cooperation

1. Both Governments intend to facilitate the mutual flow of defense procurement, taking into consideration relative technological levels of such procurement, and consistent with their national policies. This facilitation shall be sought through the provision of opportunities to compete for procurements of defense equipment and services as well as through the coproduction of defense equipment and defense R&D cooperation.

2. This MOU is intended to cover areas in which possible bilateral cooperation could be achieved in research, development, production, procurement and logistic support of conventional defense equipment, complementing the work of the Conference of National Armament Directors (CNAD), the Independent European Program Group (IEPG), and the Senior NATO Logisticians Conference(SNLC).

3. The two Governments will, consistent with their relevant laws and regulations, give the fullest consideration to all requests for cooperative R&D, and to all requests for production and procurement which are intended to enhance standardization and/or interoperability within the Alliance.

4. In the interests of standardization and the effective utilization of scarce resources, the two Governments shall, to the extent possible, adopt qualified and cost-effective defense items that have been developed or produced in the other country to meet their requirements. Defense items or services are those items or services which may be procured utilizing appropriated funds of the U.S. Department of Defense or budgeted funds of the Danish Ministry of Defense.

5. The two Governments shall mutually determine the counting procedures to be laid down in an Annex to this MOU that will apply to all defense items and defense services purchased by them directly or through their relevant industries under this MOU.

6. Each Government shall from time to time notify the other Government of defense items that may not be acquired by the notifying Government from other than domestic sources, as well as those defense items that may be particularly suitable for acquisition by the other Government.

7. Both Governments will provide appropriate policy guidance and administrative procedures within their respective defense acquisition organizations to facilitate achievement of the aims of this MOU.

8. Competitive contracting procedures shall normally be used in acquiring items of defense equipment developed or produced in each other's country for use by either country's defense establishment.

9. The detailed implementing procedures, to be agreed, will, consistent with and to the extent permitted by national laws and regulations, incorporate the following:

a. Offers or proposals will be evaluated without applying price differentials under buy-national laws and regulations and without applying the costs of import duties;

b. Full consideration will be given to all qualified industrial and/or governmental resources in each other's country;

c. Offers or proposals will be required to satisfy requirements of the purchasing Government for performance, quality, delivery, and costs.

10. Both Governments will review items submitted as candidates for respective requirements. They will indicate requirements and proposed purchases in a timely fashion to ensure adequate time for their respective industries to qualify for eligibility and submit a bid or proposal.

11. Each Government will ensure that the technical data packages (TDP's) made available under this MOU are not used for any purpose other than for the purpose of bidding on and performing a prospective defense contract, without the prior agreement of those owning or controlling proprietary rights and that full protection shall be given to such proprietary rights, or to any privileged, protected, or classified data and information they contain. In no event shall the TDP's be transferred to any third country or any other transferee without the prior written consent of the originating Government.

12. Third party transfers of defense articles or technical data made available under this MOU, and of articles produced with such data, will be subject to the agreement of the Government that made available the defense articles or technical data, except as otherwise provided in particular arrangements between the two Governments.

13. Both Governments will use their best efforts to assist in negotiating licenses, royalties and technical information exchanges with their respective industries or other owners of such rights.

14. Arrangements and procedures will, at the request of the purchasing government, be established concerning follow-on logistic support for items of defense equipment, purchased pursuant to this MOU. Both Governments will make their defense logistic systems and resources available for this purpose as required and mutually agreed.

ARTICLE II

Implementing Procedures

1. Representatives of the two Governments will be appointed to determine in detail the procedures for implementing this MOU and the terms of reference for a Danish-U.S. Committee for Mutual Cooperation.

2. The Under Secretary of Defense for Research and Engineering will be the responsible authority in the United States Government for the development of implementing procedures under this MOU.

3. The Armaments Director in the Ministry of Defense will be the responsible authority of the Kingdom of Denmark for the development of the implementing procedures under this MOU.

ARTICLE III

Industry Participation

1. Each Government will be responsible for calling to the attention of its relevant industries the basic understanding of this MOU, together with appropriate implementing guidance. Both Governments will take all necessary steps so that the industries comply with the regulations pertaining to security and to safeguarding classified information.

2. Implementation of this MOU will involve full industrial participation. Accordingly, the Governments will arrange to inform their respective procurement and requirements offices concerning the principles and objectives of this MOU. However, primary responsibility for finding business opportunities in areas of research and development and production shall rest with the industries in each nation.

ARTICLE IV

Security

1. To the extent that any items, plans, specifications or information furnished in connection with the specific implementation of this Memorandum of Understanding are classified by the furnishing Government for security purposes, the other Government shall maintain a similar classification and employ all measures necessary to preserve such security equivalent to those measures employed by the classifying Government throughout the period during which the classifying Government may maintain such classification.

2. Information that has been provided by either of the Governments to the other on condition that it remain confidential shall either retain its original classification designation, or be assigned a classification designation, that

shall ensure a degree of protection against disclosure equivalent to that required by the other Government. To assist in providing the desired protection, each Government will mark such information furnished with a legend indicating the origin of information that the information relates to the Memorandum of Understanding and Annexes thereto, and that the information is furnished in confidence.

ARTICLE V

Administration

1. The Danish-U.S. Committee for Mutual Cooperation, referred to in Article II above, will meet as agreed or at the request of either Government to review progress in implementing the MOU. They will discuss research and development, production and procurement and logistics support needs of each nation and the likely areas of cooperation; agree to the basis of, and keep under review, the financial statement referred to below; and consider any other matters relevant to this MOU.

2. Each Government will designate points of contact at the Ministry of Defense level and in each purchasing service/agency under the Ministries of Defense.

3. An annual United States-Denmark statement of the current balance, and long-term trends, of R&D cooperation and purchases between the two nations will be prepared on a basis to be mutually agreed.

ARTICLE VI

Annexes

Annexes negotiated by the responsible officials and approved by the appropriate Government authorities will be incorporated in this MOU and made an integral part thereof.[1]

ARTICLE VII

Duration

1. This will MOU will remain in effect for a ten-year period and will be extended for successive five-year periods, unless the Governments mutually decide otherwise.

2. If, however, either Government considers it necessary for compelling national reasons to terminate its participation under this MOU before the end of the ten-year period, or any extension thereof, written notification of its intention will be given to the other Government six months in advance of the effective date of termination. Such notification of intent shall become a matter of immediate consultation with the

[1] Not printed.

other Government to enable the Governments fully to evaluate the consequences of such termination and, in the spirit of cooperation, to take such actions as necessary to alleviate problems that may result from the termination. In this connection, although the MOU may be terminated by the Parties, any contract entered into consistent with the terms of this MOU shall continue in effect, unless the contract is terminated in accordance with its own terms.

ARTICLE VIII

Implementation

This MOU will come into effect on the date of the last signature.

For the Government of the United States of America
The Secretary of Defense

Harold Brown [1]

Date 30 January 1980

For the Kingdom of Denmark

The Minister of Defense

Paul Søgaard [2]

Date 2 January 1980

[1] Harold Brown.
[2] Paul Søgaard.

KENYA

Agricultural Commodities

Agreement amending the agreement of December 31, 1980.
Effected by exchange of letters
Signed at Nairobi May 4 and 22, 1981;
Entered into force May 22, 1981.

The American Ambassador to the Kenyan Permanent Secretary, Office of the Vice-President and Ministry of Finance

EMBASSY OF THE
UNITED STATES OF AMERICA

May 4, 1981

Mr. Harris Mule
Permanent Secretary
Office of the Vice-President
and Ministry of Finance
Republic of Kenya
Nairobi

Dear Mr. Mule:

I have the honor to refer to the Agricultural Commodity Agreement signed by representatives of our two Governments on December 31, 1980,[1] and to propose that Part II, Particular Provisions be amended as follows: under Item I, Commodity Table: in the line titled "Corn/Sorghum" and under the appropriate column headings change "69,200" to "109,400" and "11.0" to "16.0".

All other terms of the December 31, 1980 Agreement remain the same. If the foregoing is acceptable to your Government, I propose that this note and your reply thereto constitute agreement between our two Governments effective on the date of your note in reply.

Sincerely,

William C. Harrop
American Ambassador

[1] TIAS 9969; 32 UST 4555.

The Kenyan Permanent Secretary, Office of the Vice-President and Ministry of Finance, to the American Ambassador

FPC 6

REPUBLIC OF KENYA

OFFICE OF THE VICE-PRESIDENT AND MINISTRY OF FINANCE

Telegraphic Address:
FINANCE-NAIROBI
Telephone: 338111
When replying please quote
Ref. No. ZZ 40/64/02
and date

THE TREASURY
P.O. Box 30007
NAIROBI
KENYA

22nd May, 1981

H.E. William C. Harrop,
American Ambassador,
Embassy of the United States of America,
P.O. Box 30137,
NAIROBI.

Your Excellency,

I have the honour to refer to your letter of 4th May, 1981 concerning the Agricultural Commodity Agreement signed by our two Governments on December 31, 1980. This is to confirm that the amendments to the agreement proposed in your letter are acceptable to the Government of Kenya and are hereby made effective.

Yours sincerely,

(H. M. Mule)
PERMANENT SECRETARY

MADAGASCAR

Agricultural Commodities

Agreement signed at Antananarivo August 19, 1981;
Entered into force August 19, 1981.

AGREEMENT BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF MADAGASCAR

FOR SALES OF AGRICULTURAL COMMODITIES

The Government of the United States of America and the Government of the Democratic Republic of Madagascar, recognizing the desirability of expanding trade in agricultural commodities between the United States of America (hereinafter referred to as the exporting country), and the Democratic Republic of Madagascar (hereinafter referred to as the importing country) and with other friendly countries in a manner that will not displace usual marketings of the exporting country in these commodities or unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries;

Taking into account the importance to developing countries of their efforts to help themselves toward a greater degree of self-reliance, including efforts to meet their problems of food production and population growth;

Recognizing the policy of the exporting country to use its agricultural productivity to combat hunger and malnutrition in the developing countries, to encourage these countries to improve their own agricultural production, and to assist them in their economic development;

Recognizing the determination of the importing country to improve its own production, storage, and distribution of

agricultural food products, including the reduction of waste in all stages of food handling;

Desiring to set forth the understandings that will govern the sales of agricultural commodities to the importing country pursuant to Title I of the Agricultural Trade Development and Assistance Act, as amended[1] (hereinafter referred to as the Act), and the measures that the two Governments will take individually and collectively in furthering the above-mentioned policies;

Have agreed as follows:

PART I - GENERAL PROVISIONS

ARTICLE I

A. The Government of the exporting country undertakes to finance the sale of agricultural commodities to purchasers authorized by the Government of the importing country in accordance with the terms and conditions set forth in this agreement.

B. The financing of the agricultural commodities listed in Part II of this agreement will be subject to:

1. the issuance by the Government of the exporting country of purchase authorizations and their acceptance by the Government of the importing country; and
2. the availability of the specified commodities at the time of exportation.

C. Application for purchase authorizations will be made within 90 days after the effective date of this agreement, and, with respect to any additional commodities or amounts of commodities provided for in any supplementary

[1] 68 Stat. 455; 7 U.S.C. § 1701 *et seq.*

agreement, within 90 days after the effective date of such supplementary agreement. Purchase authorizations shall include provisions relating to the sale and delivery of such commodities, and other relevant matters.

D. Except as may be authorized by the Government of the exporting country, all deliveries of commodities sold under this agreement shall be made within the supply periods specified in the commodity table in Part II.

E. The value of the total quantity of each commodity covered by the purchase authorizations for a specified type of financing authorized under this agreement shall not exceed the maximum export market value specified for that commodity and type of financing in Part II. The Government of the exporting country may limit the total value of each commodity to be covered by purchase authorizations for a specified type of financing as price declines or other marketing factors may require, so that the quantities of such commodity sold under a specified type of financing will not substantially exceed the applicable approximate maximum quantity specified in Part II.

F. The Government of the exporting country shall bear the ocean freight differential for commodities the Government of the exporting country requires to be transported in United States flag vessels (approximately 50 percent by weight of the commodities sold under the agreement). The ocean freight differential is deemed to be the amount, as determined by the Government of the exporting country, by which the cost of ocean transportation is higher (than would otherwise be the case) by reason of the requirement that the commodities be transported in

United States flag vessels. The Government of the importing country shall have no obligation to reimburse the Government of the exporting country for the ocean freight differential borne by the Government of the exporting country.

G. Promptly after contracting for United States flag shipping space to be used for commodities required to be transported in United States flag vessels, and in any event not later than presentation of vessel for loading, the Government of the importing country or the purchasers authorized by it shall open a letter of credit, in United States dollars, for the estimated cost of ocean transportation for such commodities.

H. The financing, sale, and delivery of commodities under this agreement may be terminated by either Government if that Government determines that because of changed conditions the continuation of such financing, sale, or delivery is unnecessary or undesirable.

ARTICLE II

A. Initial Payment

The Government of the importing country shall pay, or cause to be paid, such initial payment as may be specified in Part II of this agreement. The amount of this payment shall be that portion of the purchase price (excluding any ocean transportation costs that may be included therein) equal to the percentage specified for initial payment in Part II and payment shall be made in United States dollars in accordance with the applicable purchase authorization.

B. Currency Use Payment

The Government of the importing country shall pay, or cause to be paid, upon demand by the Government of the exporting country in amounts as it may determine, but in any event no later than one year after the final disbursement by the Commodity Credit Corporation under this agreement, or the end of the supply period, whichever is later, such payment as may be specified in Part II of this agreement pursuant to Section 103(b) of the Act (hereinafter referred to as the Currency Use Payment). The Currency Use Payment shall be that portion of the amount financed by the exporting country equal to the percentage specified for Currency Use Payment in Part II. Payment shall be made in accordance with paragraph H and for purposes specified in Subsections 104(a), (b), (e), and (h) of the Act, as set forth in Part II of this agreement. Such payment shall be credited against (a) the amount of each year's interest payment due during the period prior to the due date of the first installment payment, starting with the first year, plus (b) the combined payments of principal and interest starting with the first

installment payment, until the value of the Currency Use Payment has been offset. Unless otherwise specified in Part II, no requests for payment will be made by the Government of the exporting country prior to the first disbursement by the Commodity Credit Corporation of the exporting country under this agreement.

C. Type of Financing

Sales of the commodities specified in Part II shall be financed in accordance with the type of financing indicated therein. Special provisions relating to the sale are also set forth in Part II.

D. Credit Provisions

1. With respect to commodities delivered in each calendar year under this agreement, the principal of the credit (hereinafter referred to as principal) will consist of the dollar amount disbursed by the Government of the exporting country for the commodities (not including any ocean transportation costs) less any portion of the Initial Payment payable to the Government of the exporting country.

The principal shall be paid in accordance with the payment schedule in Part II of this agreement. The first installment payment shall be due and payable on the date specified in Part II of this agreement. Subsequent installment payments shall be due and payable at intervals of one year thereafter. Any payment of principal may be made prior to its due date.

2. Interest on the unpaid balance of the principal due the Government of the exporting country for commodities delivered in each calendar year shall be paid as follows:

(a) In the case of Dollar Credit, interest shall begin to accrue on the date of 1st

delivery of these commodities in each calendar year. Interest shall be paid not later than the due date of each installment payment of principal, except that if the date of the first installment is more than a year after such date of last delivery, the first payment of interest shall be made not later than the anniversary date of such date of last delivery and thereafter payment of interest shall be made annually and not later than the due date of each installment payment of principal.

(b) In the case of Convertible Local Currency Credit, interest shall begin to accrue on the date of dollar disbursement by the Government of the exporting country. Such interest shall be paid annually beginning one year after the date of last delivery of commodities in each calendar year, except that if the installment payments for these commodities are not due on some anniversary of such date of last delivery, any such interest accrued on the due date of the first installment payment shall be due on the same date as the first installment and thereafter such interest shall be paid on the due dates of the subsequent installment payments.

3. For the period of time from the date the interest begins to the date for the first installment payment, the interest shall be computed at the initial interest rate specified in Part II of this agreement. Thereafter, the

interest shall be computed at the continuing interest rate specified in Part II of this agreement.

E. Deposit of Payments

The Government of the importing country shall make or cause to be made, payments to the Government of the exporting country in the currencies, amounts, and at the exchange rates provided for in this agreement as follows:

1. Dollar payments shall be remitted to the Treasurer, Commodity Credit Corporation, United States Department of Agriculture, Washington, D.C. 20250, unless another method of payment is agreed upon by the two Governments.

2. Payments in the local currency of the importing country (hereinafter referred to as local currency), shall be deposited to the account of the Government of the United States of America in interest bearing accounts in banks selected by the Government of the United States of America in the importing country.

F. Sales Proceeds

The total amount of the proceeds accruing to the importing country from the sale of commodities financed under this agreement, to be applied to the economic development purposes set forth in Part II of this agreement, shall be not less than the local currency equivalent of the dollar disbursement by the Government of the exporting country in connection with the financing of the commodities (other than the ocean freight differential), provided, however, that the sales proceeds to be so applied shall be reduced by the Currency Use Payment, if any, made by the Government of the importing country. The exchange rate to be used in calculating this local currency equivalent

shall be the rate at which the central monetary authority of the importing country, or its authorized agent, sells foreign exchange for local currency in connection with the commercial import of the same commodities. Any such accrued proceeds that are loaned by the Government of the importing country to private or non-governmental organizations shall be loaned at rates of interest approximately equivalent to those charged for comparable loans in the importing country. The Government of the importing country shall furnish, in accordance with its fiscal year budget reporting procedure, at such times as may be requested by the Government of the exporting country but not less often than annually, a report of the receipt and expenditure of the proceeds, certified by the appropriate audit authority of the Government of the importing country, and in case of expenditures the budget sector in which they were used.

G. Computations

The computation of the Initial Payment, Currency Use Payment and all payments of principal and interest under this agreement shall be made in United States dollars.

H. Payments

All payments shall be in United States dollars or, if the Government of the exporting country so elects,

1. The payments shall be made in readily convertible currencies of third countries at a mutually agreed rate of exchange and shall be used by the Government of the exporting country for payment of its obligations or, in the case of Currency Use Payments, used for the purposes set forth in Part II of this agreement; or

2. The payments shall be made in local currency at the applicable exchange rate specified in Part I, Article III, G of this agreement in effect on the date of payment and shall, at the option of the Government of the exporting country be converted to United States dollars at the same rate, or used by the Government of the exporting country for payment of its obligations or, in the case of Currency Use Payments, used for the purposes set forth in Part II of this agreement in the importing country.

ARTICLE III

A. World Trade

The two Governments shall take maximum precautions to assure that sales of agricultural commodities pursuant to this agreement will not displace usual marketings of the exporting country in these commodities or unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with countries the Government of the exporting country considers to be friendly to it (referred to in this agreement as friendly countries). In implementing this provision the Government of the importing country shall:

1. insure that total imports from the exporting country and other friendly countries into the importing country paid for with the resources of the importing country will equal at least the quantities of agricultural commodities as may be specified in the usual marketing table set forth in Part II during each import period specified in the table and during each subsequent comparable period in which commodities financed under this agreement are being delivered. The imports of commodities

to satisfy these usual marketing requirements for each import period shall be in addition to purchases financed under this agreement.

2. take steps to assure that the exporting country obtains a fair share of any increase in commercial purchases of agricultural commodities by the importing country.

3. take all possible measures to prevent the resale, diversion in transit, or transshipment to other countries or the use for other than domestic purposes of the agricultural commodities purchased pursuant to this agreement (except where such resale, diversion in transit, transshipment or use is specifically approved by the Government of the United States of America); and

4. take all possible measures to prevent the export of any commodity of either domestic or foreign origin, which is defined in Part II of this agreement, during the export limitation period specified in the export limitation table in Part II (except as may be specified in Part II or where such export is otherwise specifically approved by the Government of the United States of America).

B. Private Trade

In carrying out the provisions of this agreement, the two Governments shall seek to assure conditions of commerce permitting private traders to function effectively.

C. Self-Help

Part II describes the program the Government of the importing country is undertaking to improve its production, storage, and distribution of agricultural commodities. The Government of the importing country shall furnish in such form

and at such time as may be requested by the Government of the exporting country, a statement of the progress the Government of the importing country is making in carrying out such self-help measures.

D. Reporting

In addition to any other reports agreed upon by the two Governments, the Government of the importing country shall furnish at least quarterly for the supply period specified in Part II, Item I of this agreement and any subsequent comparable period during which commodities purchased under this agreement are being imported or utilized:

1. the following information in connection with each shipment of commodities under the agreement: the name of each vessel; the date of arrival; the port of arrival; the commodity and quantity received; and the condition in which received;

2. a statement by it showing the progress made toward fulfilling the usual marketing requirements;

3. a statement of the measures it has taken to implement the provisions of Sections A 2 and 3 of this Article; and

4. statistical data on imports by country of origin and exports by country of destination, of commodities which are the same as or like those imported under the agreement.

E. Procedures for Reconciliation and Adjustment of Accounts

The two Governments shall each establish appropriate procedures to facilitate the reconciliation of their respective records on the amounts financed with respect to the commodities

delivered during each calendar year. The Commodity Credit Corporation of the exporting country and the Government of the importing country may make such adjustments in the credit accounts as they mutually decide are appropriate.

F. Definitions

For the purposes of this agreement:

1. delivery shall be deemed to have occurred as of the on-board date shown in the ocean bill of lading which has been signed or initialed on behalf of the carrier,

2. import shall be deemed to have occurred when the commodity has entered the country, and passed through customs, if any, of the importing country, and

3. utilization shall be deemed to have occurred when the commodity is sold to the trade within the importing country without restriction on its use within the country or otherwise distributed to the consumer within the country.

G. Applicable Exchange Rate

For the purposes of this agreement, the applicable exchange rate for determining the amount of any local currency to be paid to the Government of the exporting country shall be a rate in effect on the date of payment by the importing country which is not less favorable to the Government of the exporting country than the highest exchange rate legally obtainable in the importing country and which is not less favorable to the Government of the exporting country than the highest exchange rate obtainable by any other nation. With respect to local currency:

1. As long as a unitary exchange rate system is maintained by the Government of the importing country, the applicable exchange rate will be the rate at which the

central monetary authority of the importing country, or its authorized agent, sells foreign exchange for local currency.

2. If a unitary rate system is not maintained, the applicable rate will be the rate (as mutually agreed by the two Governments) that fulfills the requirements of the first sentence of this Section G.

H. Consultation

The two Governments shall, upon request of either of them, consult regarding any matter arising under this agreement, including the operation of arrangements carried out pursuant to this agreement.

I. Identification and Publicity

The Government of the importing country shall undertake such measures as may be mutually agreed prior to delivery for the identification of food commodities at points of distribution in the importing country, and for publicity in the same manner as provided for in Subsection 103(1) of the Act.

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PART II - PARTICULAR PROVISIONS

Item I. Commodity Table:

--	Supply	Approximate	Maximum Export
--	Period	Quantity	Market Value
Commodity	(U.S. FY)	(MT)	(Millions)
Rice	1981	11,800	DOLS 5.0
Total		11,800	DOLS 5.0

Item II. Payment Terms: Convertible Local Currency Credit - Twenty (20) Years.

(A) Initial Payment - Five (5) percent;

(B) Currency Use Payment - Ten (10) percent;

(C) Number of Installment Payments - Thirteen (13);

(D) Amount of Each Installment Payment - Approximately Equal Annual Installments;

(E) Due Date of First Installment Payment - Eight (8) Years from Date of Last Delivery of Commodities in Each Calendar Year;

(F) Initial Interest Rate - Two (2) percent;

(G) Continuing Interest Rate - Four (4) percent.

Item III. Usual Marketing Table:

--	Import Period	Usual Marketing
Commodity	(U.S. FY)	Requirement (MT)
Rice	1981	86,000

Item IV. Export Limitations:

(A) The export limitation period shall begin date of entry into force this agreement and shall continue for the remainder this U.S. FY 1981, or any subsequent U.S. fiscal year during which commodities financed under this agreement are being imported or utilized.

(B) For the purposes of Part I, Article III (A) (4) of this agreement, the commodities which may not be exported are: Rice in the form of paddy, brown or milled.

Item V. Self-Help Measures

(A) The Government of the Democratic Republic of Madagascar agrees to undertake self-help measures to improve the production, storage, and distribution of agricultural commodities. The following self-help measures shall be implemented to contribute directly to development progress in poor rural areas and enable the poor to participate in increasing agricultural production.

(B) The Government of the Democratic Republic of Madagascar agrees to undertake the activities in Item V and VI and in doing so to provide such adequate financial, technical, and managerial resources for their implementation as can be financed by the sales proceeds.

(1) (A) Stimulate further development/refinement of food policy strategy by completing the following research studies and surveys by dates indicated: (1) a study of existing storage facilities and their utilization, and construction requirements within 18 months; (2) a study of the current input distribution and marketing systems to develop recommendations for increased effectiveness within 24 months; and (3) a study on the reduction of post-harvest losses on rice within 30 months.

(B) Support policy and other interventions through provision of appropriate directives, regulations,

decrees, etc. with special attention to producer prices, incentives, consumer prices, and agricultural input supplies and prices. Undertake within 18 months research and appropriate studies to develop methodology for determining (1) realistic costs to producers, which include considerations for inputs and provide incentives, particularly for rice producers; and (2) fair price to consumers.

(2) Increase support for micro-development projects selected, planned and executed by participating members at the "fokonolona" levels with emphasis on their efforts to improve construction/maintenance of storage facilities and improvement/construction of village water supply systems. At least 20 "fokonolona" will be targeted to receive benefits within 12 months.

(3) Continue to support improved food production, particularly rice, through increased efforts by:

(A) Expanding seed multiplication through renovations of current facilities and establishment of new facilities for these purposes.

(B) Improve the distribution of fertilizer to the small producers in order to maximize the benefit of improved seed multiplication.

(C) Use of Sales Proceeds:

(1) The Government of Madagascar agrees to deposit all Malagasy franc (FMG) proceeds from the sale of commodities in a special account. The amount of proceeds must be equivalent to the amount of credit provided by CCC converted to FMG at the most favorable exchange rate available to foreign governments.

(2) The GDRM agrees to release such sales proceeds from the special account for the general purpose outlined in Item V, Self-Help Measures, and for such other agricultural and rural development purposes as may be agreed with the USG Country Team.

(3) The GDRM and the USG agree to convene meeting twice a year for the purpose of consulting on the agreed purpose for which the sales proceeds generated under this agreement are used; to review actual disbursements and physical progress against the benchmarks specified above, and to discuss such other matters as may be agreed.

Item VI. Economic Development Purpose for which Proceeds Accruing to Importing Country are to be Used:

(A) The proceeds accruing to Madagascar for the sale of commodities financed under this agreement will be used for financing the self-help measures set forth in the agreement, and for the following development sectors: agricultural and rural development, in a manner designed to increase the access of the poor in the recipient country to an adequate, nutritious, and stable food supply.

(B) In the use of proceeds for these purposes emphasis will be placed on directly improving the lives of the poorest of Madagascar's people and their capacity to participate in the development of their country.

PART III - FINAL PROVISIONS

A. This agreement may be terminated by either Government by notice of termination to the other Government for any reason, and by the Government of the exporting country if it should determine that the self-help program described in the agreement is not being adequately developed. Such termination will not reduce any financial obligations the Government of the importing country has incurred as of the date of terminationn.

B. This agreement shall enter into force upon signature.

C. This agreement shall be executed in both the English and French languages. In the event of any conflict between the two versions, the English language text shall control.

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present agreement DONE at ANTANANARIVO on the Nineteenth of August Nineteen Hundred and Eighty One.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

WILLIAM J. BOUDREAU

CHARGE D'AFFAIRES, a.i.

FOR THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF MADAGASCAR

RAKOTOVAO-RAZAKABOANA

MINISTRE AUPRES DE LA PRESIDENCE CHARGE DES FINANCES ET DU PLAN

ACCORD CONCLU ENTRE LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE ET LE GOUVERNEMENT DE LA REPUBLIQUE DEMOCRATIQUE DE MADAGASCAR EN VUE DE LA VENTE DE PRODUITS AGRICOLES

Le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République Démocratique de Madagascar,

Reconnaissant qu'il est souhaitable de développer le commerce des produits agricoles entre les Etats-Unis d'Amérique (ci-après dénommés "le pays exportateur") et la République Démocratique de Madagascar (ci-après dénommé "le pays importateur") et d'autres nations amies, d'une manière telle que ce développement ne risque pas de porter préjudice aux marchés habituels du pays exportateur pour ces produits ou d'affecter indûment les prix mondiaux de ces produits agricoles ou d'entraver les pratiques commerciales d'usage établies avec les pays amis;

Tenant compte de l'importance que revêt pour les pays en voie de développement le fait de s'efforcer de s'aider eux-mêmes en vue de parvenir à un plus haut degré d'indépendance, particulièrement en s'efforçant de faire face eux-même aux problèmes que posent la production alimentaire et l'accroissement démographique;

Reconnaissant la politique du pays exportateur qui consiste à mettre sa productivité agricole au service de la lutte contre la faim et la sous-alimentation dans les pays en voie de développement, à encourager ces pays à relever leur propre production agricole et à les aider dans leur développement économique;

Reconnaissant la volonté du pays importateur d'améliorer sa propre production, ses installations d'entreposage et la distribution de ses denrées alimentaires agricoles, y compris la réduction des pertes à tous les stades manutention des denrées;

Désirant préciser les conventions qui régiront les ventes de produits agricoles au pays importateur en vertu du titre I de la Loi sur le développement des échanges commercisux et de l'aide en produits agricoles, telle que modifiée (ci-après dénommée "la Loi"), et les

dispositions que les deux Gouvernements prendront individuellement et collectivement en vue de favoriser l'application des politiques mentionnées ci-dessus;

Ont convenu ce qui suit:

1ère PARTIE - DISPOSITIONS GENERALES

ARTICLE PREMIER

A. Le Gouvernement du pays exportateur s'engage à financer la vente de produits agricoles à des acheteurs autorisés par le Gouvernement du pays importateur conformément aux termes et conditions énoncés dans le présent accord.

B. Le financement de la vente des produits agricoles énumérés dans la IIème Partie du présent accord sera subordonné à:

1. La délivrance par le Gouvernement du pays exportateur d'autorisations d'achat et à l'acceptation de ces autorisations par le Gouvernement du pays importateur; et
2. La disponibilité des produits visés, à la date prévue pour leur exportation.

C. Les demandes d'autorisations d'achat devront être faites dans un délai de 90 jours à compter de la date d'entrée en vigueur du présent accord et, en ce qui concerne tous autres produits ou toutes quantités supplémentaires prévus par tout accord supplémentaire, dans un délai de 90 jours à compter de la date d'entrée en vigueur dudit accord supplémentaire. Les autorisations d'achat comporteront des dispositions relatives à la vente et à la livraison des produits visés et toutes autres dispositions pertinentes.

D. Sous réserve d'autorisations contraires du Gouvernement du pays exportateur, les livraisons des produits vendus aux termes du présent accord seront effectuées au cours des périodes d'offre fixées au tableau des produits figurant dans la IIème Partie.

E. La valeur de la quantité totale de chaque produit faisant l'objet des autorisations d'achat en vue d'un mode particulier de

financement, autorisé aux termes du présent accord, ne devra pas dépasser la valeur marchande maximum d'exportation stipulée quant à ce produit et à ce mode de financement dans la IIème Partie. Le Gouvernement du pays exportateur pourra fixer la limite de la valeur totale de chaque produit couvert par des autorisations d'achat et devant faire l'objet d'un mode particulier de financement suivant que baisse le prix de ce produit ou que d'autres facteurs de marché le nécessitent, de sorte que les quantités d'un tel produit, vendues conformément à un mode stipulé de financement ne dépassent pas sensiblement la quantité maximum approximative applicable stipulée dans la IIème Partie.

F. Le Gouvernement du pays exportateur prendra à sa charge le frêt différentiel afférent aux produits dont le transport à bord de navires battant pavillon des Etats-Unis sera exigé par le Gouvernement du pays exportateur (soit environ 50 pour cent du tonnage des produits vendus aux termes du présent accord.) Le frêt différentiel sera réputé être égal à la différence, telle qu'elle aura été déterminée par le Gouvernement du pays exportateur, entre les frais de transport maritime encourus (plus élevés qu'ils ne l'auraient été autrement) et ceux résultant de l'obligation d'utiliser des navires battant pavillon des Etats-Unis pour le transport des produits en question. Le Gouvernement du pays importateur ne sera pas dans l'obligation de rembourser au Gouvernement du pays exportateur le frêt différentiel financé par le Gouvernement du pays exportateur.

G. Dès que possible après que l'espace nécessaire à bord de navires battant pavillon des Etats-Unis aura été réservé par voie de contrat en vue de l'expédition des produits dont le transport à bord de navires battant pavillon des Etats-Unis est obligatoire, et au plus tard à la date à laquelle les navires arriveront au port de chargement, le Gouvernement du pays importateur ou les acheteurs autorisés par lui ouvriront une lettre de crédit, en dollars des Etats-Unis, d'un montant égal au coût estimatif du transport maritime desdits produits.

H. L'un ou l'autre Gouvernement pourra mettre fin au financement, à la vente et à la livraison des produits en vertu du présent accord, s'il juge qu'en raison de changement de conditions, il est inutile ou inopportun de continuer de financer, de vendre ou de livrer lesdits produits.

ARTICLE II

A. Paiement Initial

Le Gouvernement du pays importateur effectuera ou fera en sorte que soit effectué tout paiement initial stipulé dans la IIème Partie du présent accord. Le montant de ce paiement représentera la proportion du prix d'achat (exclusion faite de tous frais de transport maritime qui pourraient y figurer) égale au pourcentage stipulé à titre de paiement initial dans la IIème Partie et ledit paiement sera effectué en dollars des Etats-Unis, conformément aux dispositions de l'autorisation d'achat applicable.

B. Paiement Utilisant La Monnaie Locale

Le Gouvernement du pays importateur effectuera ou fera en sorte que soit effectué, à la demande du Gouvernement du pays exportateur et à raison de montants stipulés par lui, mais en aucun cas dans un délai de plus d'un an après le dernier décaissement fait par la Commodity Credit Corporation au titre du présent accord, ou au terme du délai d'approvisionnement, au dernier échu de ces termes, tout paiement qui pourrait être stipulé dans la IIème Partie du présent accord en vertu de la Section 103 (b) de ladite Loi (clause ci-après dite du "Paiement Utilisant La Monnaie Locale"). Le paiement utilisant la monnaie locale représentera la partie du montant financée par le pays exportateur égale au pourcentage spécifié relativement au paiement utilisant la monnaie locale dans la IIème Partie. Le paiement devra être effectué conformément au paragraphe H et dans les buts spécifiés à la Sous-section 104 (a), (b), (e), et (h) de la Loi, dont l'énoncé figure dans la IIème Partie du présent accord. Ledit paiement devra être imputé a) au mon-

tant du paiement de chaque année en règlement des intérêts, dû durant la période précédant la date d'échéance du paiement de la première tranche, à compter de la première année, et b) au total du paiement en remboursement du principal et du paiement des intérêts, à compter du paiement de la première tranche, jusqu'à compensation de la valeur du paiement utilisant la monnaie locale. Sauf stipulation contraire dans la IIème Partie, aucune demande de paiement ne sera faite par le Gouvernement du pays exportateur antérieurement au premier décaissement effectué par la Commodity Credit Corporation du pays exportateur, suivant le présent accord.

C. Mode de Financement

La vente des produits visés dans la IIème Partie sera financée selon le mode de financement indiqué dans ladite Partie. En outre, des dispositions spéciales relatives à ladite vente sont également énoncées dans la IIème Partie.

D. Dispositions Relatives Au Crédit

1. En ce qui concerne les produits livrés au cours de chaque année civile aux termes du présent accord, le principal du crédit (ci-après dénommé "le principal") comprendra le montant en dollars décaissé par le Gouvernement du pays exportateur pour les produits (frais de transport maritime non compris) moins toute fraction du paiement initial payable au Gouvernement du pays exportateur.

Le principal sera payé conformément au calendrier des paiements figurant dans la IIème Partie du présent accord. Le premier versement sera dû et payable à la date fixée dans la IIème Partie du présent accord. Les versements suivants seronts dûs et payables à intervalles d'un an à compter de la date d'échéance du premier versement. Tout paiement imputable au principal pourra être effectué avant la date de son échéance.

2. Les intérêts portant sur le montant non payé du principal dû au Gouvernement du pays exportateur comme suite à la livraison de produits au cours de chaque année civile seront payés de la façon suivante:

(a) Dans le cas du crédit en dollars, les intérêts commenceront à courir à compter de la date de la première livraison de produits au cours de chaque année civile. Les intérêts seront payés au plus tard à la date à laquelle est dûe chaque tranche de remboursement du principal, excepté que si l'échéance de la première tranche tombe plus d'un an après ladite date de dernière livraison, le premier paiement d'intérêts sera effectué, au plus tard, à une date correspondant exactement, au mois et au jour, à ladite date de dernière livraison et, par la suite, les intérêts seront payés annuellement et, au plus tard, à la date d'échéance de chaque tranche de remboursement du principal.

(b) Dans le cas du crédit en monnaie locale convertible, les intérêts commenceront à courir à compter de la date du décaissement en dollars du Gouvernement du pays exportateur. Lesdits intérêts seront payés annuellement dans un délai d'un an à compter de la date de la dernière livraison de produits au cours de chaque année civile, excepté que si la date d'échéance des tranches de paiement attribuables à ces produits ne tombe pas à une date correspondant exactement, au mois et au jour, à ladite date de dernière livraison, tous intérêts ainsi courus à la date d'échéance de la première tranche de remboursement seront dûs à la même date que la première tranche de paiement et, par la suite, lesdits intérêts seront payés aux dates d'échéance des tranches de paiement suivantes.

3. En ce qui concerne la période allant de la date à laquelle les intérêts commenceront à courir jusqu'à la date d'échéance de la première tranche de paiement, les intérêts courus seront calculés au taux initial d'intérêt fixé dans la IIème Partie du présent accord. Par la suite, les intérêts courus seront calculés au taux d'intérêt définitif fixé dans la IIème Partie du présent accord.

E. Dépôts des versements

Le Gouvernement du pays importateur effectuera ou fera en sorte que soient effectués des versements au Gouvernement du pays exportateur d'un montant, en monnaie et aux taux de change stipulés dans le présent accord, de la façon suivante:

1. Les versements en dollars seront remis au Treasurer, Commodity Credit Corporation, United States Department of Agriculture, Washington, D.C. 20250, à moins qu'il ne soit convenu entre les deux Gouvernements une autre méthode de paiement.

2. Les versements en monnaie locale du pays importateur (ci-après dénommés "monnaie locale") seront déposés au compte du Gouvernement des Etats-Unis d'Amérique dans des comptes portant intérêt dans des banques désignées par le Gouvernement des Etats-Unis d'Amérique dans le pays importateur.

F. Recettes des Ventes

Le montant total des fonds acquis au pays importateur par suite de la vente de produits financés aux termes du présent accord, et devant être affecté aux fins de développement économique énoncées dans la IIème Partie du présent accord, ne devra pas être inférieur à la somme en monnaie locale équivalente au décaissement en dollars effectué par le Gouvernement du pays exportateur dans le cadre du financement des produits (en dehors du frêt différentiel), étant entendu, cependant, que des recettes ainsi affectées sera déduit tout paiement utilisant la monnaie locale effectué par le Gouvernement du pays importateur. Le taux

de change devant servir de base au calcul de cette équivalence en monnaie locale sera le taux auquel l'autorité monétaire centrale du pays importateur, ou son représentant autorisé, vend des devises étrangères en échange de monnaie locale à l'occasion de l'importation commerciale de produits identiques. Tous fonds ainsi acquis et prêtés par le Gouvernement du pays importateur à des organisations privées ou non gouvernementales le seront à un taux d'intérêt approximativement équivalent aux taux appliqués à des prêts semblables dans le pays importateur. Le Gouvernement du pays importateur devra fournir, suivant sa méthode d'établissement de rapports budgétaires portant sur l'exercice financier, à tous moments où le demanderait le Gouvernement du pays exportateur, mais à des intervalles de temps maximums d'un an, un bilan des recettes et des dépenses auxquelles ces recettes sont affectées, accompagné de la certification des services compétents du Gouvernement du pays importateur et, dans le cas des dépenses, de l'indication du secteur budgétaire auxquelles lesdites dépenses se rapportent.

G. Calculs

Le calcul du paiement initial, du paiement utilisant la monnaie locale et de tous les remboursements du principal et paiements des intérêts prévus par le présent accord sera effectué en dollars des Etats-Unis.

H. Paiements

Tous les paiements seront effectués en dollars des Etats-Unis ou, si le Gouvernement du pays exportateur en décide ainsi,

1. Lesdits paiements seront effectués en monnaies facilement convertibles de tiers pays, à un taux de change dont il sera mutuellement convenu, et seront utilisés par le Gouvernement du pays exportateur pour permettre à celui-ci d'acquitter ses obligations ou, dans le cas des paiements utilisant la monnaie locale, pour répondre aux buts énoncés dans la IIème Partie du présent accord; ou

2. Lesdits paiements seront effectués en monnaie locale au taux de change applicable stipulé à l'article III G de la Ière Partie du présent accord, en vigueur à la date à laquelle les paiements seront effectués, et seront, au gré du Gouvernement du pays exportateur, convertis en dollars des Etats-Unis au même taux, ou utilisés par le Gouvernement du pays exportateur pour acquitter ses obligations ou, dans le cas des paiements utilisant la monnaie locale, pour répondre aux buts, dans le pays importateur, énoncés dans la IIème Partie du présent accord.

ARTICLE III

A. Commerce Mondial

Les deux Gouvernements prendront le maximum de précautions pour s'assurer que les ventes de produits agricoles effectués conformément aux dispositions du présent accord ne portent pas préjudice aux marchés habituels du pays exportateur pour ces produits ou n'affectent pas indûment les prix mondiaux de ces produits agricoles ou n'entravent pas les pratiques commerciales d'usage établies avec les pays que le Gouvernement du pays exportateur considère comme étant des pays amis (dénommés "pays amis" dans le présent accord). Aux fins d'application de la présente clause, le Gouvernement du pays importateur devra:

1. s'assurer que le total de ses importations en provenance du pays exportateur et d'autres pays amis, payé au moyen de ressources du pays importateur, sera au moins égal à la quantité des produits agricoles qui pourraient être spécifiés dans le tableau des marchés habituels figurant dans la IIème Partie du présent accord durant chaque période d'importation indiquée dans ledit tableau et durant chaque période comparable suivante au cours de laquelle des produits dont l'achat sera financé aux termes du présent accord auront été livrés. Les importations de produits destinés à satisfaire à ces obligations concernant les marchés habituels au cours de chaque période d'importation devront être effectuées en plus des achats financés aux termes du présent accord.

2. prendre toutes dispositions pour assurer au pays exportateur une part équitable de tous achats commerciaux supplémentaires de produits agricoles par le pays importateur.

3. prendre toutes dispositions possibles pour empêcher la revente, le détournement en transit ou le transbordement à destination d'autres pays des produits agricoles achetés en vertu des dispositions du présent accord, ou l'utilisation de ces produits à des fins autres que celles devant satisfaire aux besoins du pays (sauf dans les cas où leur revente, leur détournement en transit, leur transbordement ou leur utilisation à d'autres fins que celles prévues seraient expressément approuvés par le Gouvernement des Etats-Unis d'Amérique); et

4. prendre toutes dispositions possibles pour empêcher l'exportation de tous produits d'origine nationale ou étrangère, dont définition est donnée dans la IIème Partie du présent accord, durant la période de limitation des exportations spécifiée dans le tableau des limitations des exportations figurant dans la IIème Partie du présent accord (sauf stipulation particulière de la IIème Partie du présent accord ou dans le cas où de telles exportations seraient expressément approuvées par le Gouvernement des Etats-Unis d'Amérique).

B. Commerce Privé

Aux fins d'application du présent accord, les deux Gouvernements s'efforceront d'assurer les conditions commerciales qui permettront aux negociants privés d'exercer leur commerce sans entrave.

C. Auto-Assistance

La IIème Partie décrit le programme que le Gouvernement du pays importateur a entrepris en vue d'améliorer sa production, ses installations d'entreposage et la commercialisation des produits agricoles. Le Gouvernement du pays importateur devra, dans les formes et aux dates auxquelles le Gouvernement du pays exportateur pourrait en faire la demande, fournir un rapport sur les progrès réalisés par le Gouvernement du pays importateur quant à l'application des mesures d'auto-assistance de cette nature.

D. Rapport

En plus de tous autres rapports dont les deux Gouvernements ont convenu, le Gouvernement du pays importateur devra, au moins tous les trimestres au cours de la période d'approvisionnement spécifiée à la IIème Partie, Point I, du présent accord et lors de toute période ultérieure comparable durant laquelle des produits achetés aux termes du présent accord sont importés ou utilisés, communiquer ce qui suit:

1. Les renseignements ci-après concernant chaque expédition de produits relevant du présent accord: le nom de chaque navire, la date d'arrivée, le port d'arrivée, le produit et la quantité reçus, l'état dans lequel la cargaison a été livrée;

2. Un rapport indiquant les progrès réalisés en vue de satisfaire aux obligations relatives aux marchés habituels;

3. Un rapport exposant les mesures prises aux fins d'application des dispositions des sections A. 2. et 3. du présent article;

4. Des informations statistiques sur les importations par pays d'origine et sur les exportations par pays destinataire, quant aux produits identiques ou similaires à ceux qui sont importés aux termes du présent accord.

E. Méthode de Rapprochement et d'Ajustement des Comptes

Les deux Gouvernements devront chacun adopter toute méthode propre à faciliter le rapprochement de leurs relevés respectifs des montants financés en ce qui concerne les produits livrés durant chaque année civile. La Commodity Credit Corporation du pays exportateur et le Gouvernement du pays importateur pourront procéder à tous ajustements des comptes de crédit qu'ils jugeraient d'un commun accord comme étant appropriés.

F. Définitions

Aux fins d'application du présent accord:

1. La livraison sera réputée avoir lieu à la date du reçu à bord figurant dans le connaissement maritime signé ou paraphé pour le compte du transporteur;

2. L'importation sera réputée avoir eu lieu lorsque le produit visé aura passé la frontière du pays importateur et aura été dédouané, s'il y a lieu, par ledit pays;

3. L'utilisation sera réputée avoir eu lieu lorsque le produit visé aura été vendu aux négociants dans le pays importateur, sans restriction concernant son emploi dans ledit pays, ou lorsqu'il aura été distribué de toute autre manière au consommateur dans le pays.

G. Taux de Change Applicable

Aux fins d'application du présent accord, le taux de change applicable en vue de déterminer le montant de toute somme en monnaie locale devant être versée au Gouvernement du pays exportateur sera un taux en vigueur à la date de versement par le pays importateur qui ne sera pas moins favorable au Gouvernement du pays exportateur que le taux de change le plus élevé pouvant être légalement obtenu dans le pays importateur et un taux qui ne sera pas moins favorable au Gouvernement du pays exportateur que le taux de change le plus élevé pouvant être obtenu par tout autre pays. En ce qui concerne la monnaie locale:

1. Tant qu'un système de taux de change unitaire est maintenu en vigueur par le Gouvernement du pays importateur, le taux de change applicable sera le taux auquel l'autorité monétaire centrale du pays importateur, ou son agent autorisé, vend des devises étrangères en échange de monnaie locale;

2. Au cas où un système de taux de change unitaire ne serait pas maintenu en vigueur, le taux applicable sera le taux qui (selon qu'il en aura été convenu mutuellement par les deux Gouvernements) répondra aux conditions stipulées dans le premier alinéa de la présente section G.

H. Consultation

A la requête de l'un ou l'autre, les deux Gouvernements se consulteront en ce qui concerne toute question soulevée par le présent

accord, notamment en ce qui concerne l'exécution des dispositions prévues en vertu du présent accord.

I. Identification et Publicité

Le Gouvernement du pays importateur prendra toutes mesures dont il pourrait être mutuellement convenu avant la livraison en vue de procéder à l'identification des denrées alimentaires aux lieux de distribution dans le pays importateur et en vue d'assurer la publicité de la manière prévue au sous-paragraphe 103 (1) de la Loi.

IIème PARTIE - DISPOSTIONS PARTICULIERES

Point I. Tableau des Produits

Produit	Période de l'Approvisionnement (Année Fiscale des Etats-Unis)	Quantité Maximum Approximative (Tonnes Métriques)	Valeur Maximum sur le Marché d'Exportation (Million)
Riz	1981	11.800	5,0 Dollars
Total		11.800	5,0 Dollars

Point II. Modalités de Paiement:

Crédit en Monnaie Locale Convertible - Vingt (20) ans.

(A) Paiement Initial - Cinq (5) pour cent;

(B) Paiement Utilisant La Monnaie Locale - Dix (10) pour cent;

(C) Nombre de Versements - Treize (13)

(D) Montant de Chaque Versement - En versements annuels approximativement égaux;

(E) Date d'Echéance du Premier Versement - Huit (8) ans après la date de la dernière livraison des produits au cours de chaque année civile;

(F) Taux d'Intérêt Initial - Deux (2) pour cent;

(G) Taux d'Intérêt Définitif - Quatre (4) pour cent.

Point III. Tableau des Marchés Habituels

Produit	Période d'Importation (Année Fiscale des Etats-Unis)	Obligations Relatives aux Marchés Habituels (Tonnes Métriques)
Riz	1981	86.000

Point IV. Limitation des Exportations

(A) La période de limitation des exportations commence à la date d'entrée en vigueur du présent accord et s'étendra sur le reste de l'année fiscale américaine 1981, ou sur toute année fiscale américaine ultérieure durant laquelle les produits financés au titre du présent accord sont importés et utilisés.

(B) Pour l'application des dispositions de la Première Partie, Article II (A) (4) du présent accord, les produits qui ne peuvent pas être exportés sont: le riz, sous forme de paddy, brun ou usiné.

Point V. Mesures d'Auto-Assistance

(A) Le Gouvernement de la République Démocratique de Madagascar consent à prendre des mesures d'auto-assistance pour améliorer la production, le stockage et la distribution des produits agricoles. Les mesures d'auto-assistance suivantes seront mises en oeuvre pour contribuer directement au dévéloppement dans les zones rurales pauvres et pour donner aux pauvres la possibilité de participer à l'accroissement de la production agricole.

(B) Le Gouvernement de la République Démocratique de Madagascar consent à entreprendre les activités spécifiées dans les Points V et VI et, ce faisant, à fournir les ressources financières, techniques et administratives pour leur mise en oeuvre qui peut être financée par les produits des ventes.

(1) (A) Stimuler le développement supplémentaire de la stratégie de politique alimentaire en terminant avant les dates indiquées les études et recherches suivantes: (a) une étude des installations de stockage existantes et de leur utilisation ainsi que des exigences de construction dans un délai de 18 mois; (b) une étude de la distribution actuelle des intrants agricoles et des systèmes de commercialisation pour mettre au point les recommandations en vue d'une efficacité accrue dans un délai de 24 mois; et (c) une étude des pertes de riz après la récolte dans un délai de 30 mois;

(B) Soutenir la politique et les autres interventions par le moyen des dispositions des directives, lois, décrets, etc. appropriés en tenant particulièrement compte des prix aux producteurs agricoles, des diverses formes d'intéressement à la production, des prix aux consommateurs, et des fournitures et prix des intrants agricoles. Entreprendre dans un délai de 8 mois les recherches et les études appropriées pour mettre au point une méthodologie destinée à déterminer (a) les coûts réels aux producteurs, qui comprennent les frais pour les intrants et prévoient les diverses formes d'intéressement à la production, en particulier pour les producteurs de riz; et (b) un prix équitable aux consommateurs.

(2) Augmenter l'appui aux projets de micro-réalisation choisis, conçus et exécutés par les membres participants aux niveaux des fokonolona, en mettant en évidence leurs efforts visant à améliorer la construction et l'entretien des installations de stockage et à assurer l'amélioration de la construction et l'entretien des systèmes d'approvisionnement en eau du village. L'objectif est qu'au moins 20 fokonolona en tireront avantage dans un délai de 12 mois.

(3) Continuer à appuyer la production alimentaire améliorée, en particulier du riz, par des efforts accrus en:

(A) développant la multiplication de semences grâce à la rénovation des moyens actuels et à la création de nouvelles installations à ces fins.

(B) développant la distribution d'engrais aux petits producteurs afin de porter au maximum l'avantage de la multiplication de semences améliorées.

(C) utilisation des Produits des Ventes:

(1) Le Gouvernement de Madagascar consent à déposer tous les produits en Francs Malgaches (FMG) des ventes des produits dans un compte spécial. Le montant de ces produits doit atteindre la contre-valeur de celui du crédit fourni par la CCC converti en FMG au taux de change le plus favorable accordé à des gouvernements étrangers.

(2) Le Gouvernement de la République Démocratique de Madagascar consent à débloquer lesdits produits des ventes du compte spécial pour l'application des dispositions générales du Point V, Mesures d'Auto-Assistance et à d'autres fins de développement agricole et rural, dont on peut convenir avec l'Equipe sur Place du Gouvernement des Etats-Unis.

(3) Le Gouvernement de la République Démocratique de Madagascar et le Gouvernement des Etats-Unis consentent à se réunir deux fois par an en vue de se consulter sur les objectifs convenus pour lesquels sont utilisés les produits des ventes obtenus au titre de cet accord, pour reviser les paiements effectivement opérés et l'état d'avancement réel par rapport aux données de base spécifiées précédemment, et pour discuter d'autres questions sur lesquelles on peut se mettre d'accord.

Point VI. Objectifs de Dévéloppement Economique auxquels doivent être consacrés les produits des ventes revenant au Pays Importateur:

(A) Les montants revenant à Madagascar sur les ventes de produits financés au titre du présent accord seront utilisés au financement des mesures d'auto-assistance définis dans l'accord, et pour les secteurs de dévéloppement suivants: développement agricole et rural de manière à activer l'accès des pauvres dans le pays bénéficiaire à un approvisionnement alimentaire adéquat, nutritif, et stable.

(B) Dans l'emploi desdits montants à ces fins il conviendra de mettre l'accent sur l'amélioration directe du mode de vie des couches les plus pauvres de la population de Madagascar et de leur aptitude à participer au dévéloppement de leur pays.

IIIème PARTIE - DISPOSITIONS FINALES

A. Le présent accord pourra être dénoncé pour toute raison par l'un ou l'autre des Gouvernements par notification de dénonciation adressée à l'autre Gouvernement, et par le Gouvernement du pays exportateur si celui-ci juge que le programme d'auto-assistance décrit dans l'accord ne se déroule pas convenanblement. Cette dénonciation ne réduira aucune des obligations financières que le Gouvernement du pays importateur aura contractées à la date de ladite dénonciation.

B. Le présent accord entrera en vigueur à la date de sa signature.

C. Le présent accord sera rédigé dans les deux langues anglaise et française. En cas de contradiction entre les deux versions, le texte en langue anglaise fera foi.

EN FOI DE QUOI, les représentants soussignés, dûment autorisés à cet effet, ont signé le présent accord.

FAIT à ANTANANARIVO, en double exemplaire, le Dix Neuf Août, Mille Neuf Cent Quatre Vingt et Un.

POUR LE GOUVERNEMENT
DE LA REPUBLIQUE DEMOCRATIQUE
DE MADAGASCAR

RAKOTOVAO-RAZAKABOANA

MINISTRE AUPRES DE LA PRESIDENCE
CHARGE DES FINANCES ET DU PLAN

POUR LE GOUVERNEMENT
DES ETATS-UNIS D'AMERIQUE

WILLIAM J. BOUDREAU

CHARGE D'AFFAIRES a.i.

MINUTES OF THE NEGOTIATING MEETINGS

BETWEEN PARTIES TO THE

PL 480 TITLE I, U.S. FISCAL YEAR 1981, RICE SALES

PARTICIPANTS: A record of participants of the negotiating meetings is attached as an Addendum to these minutes.[1]

PREFACE

These minutes reflect the discussions during several negotiating meetings held in Antananarivo, Democratic Republic of Madagascar, in which Technicians designated by the Government of the Democratic Republic of Madagascar Delegation, hereinafter referred to as the GDRM Delegation and the Government of the United States Delegation, hereinafter referred to as the US Delegation, participated prior to the signing of the agreement.

NEGOTIATIONS

1. The negotiating meetings were opened with a welcome by the Director General of Plan, Ministry of Finance and Planning; the Charge d'Affaires of the American Embassy responded.
2. The US Delegation explained that before entering into this agreement consideration was given to the extent to which the GDRM is undertaking measures to increase per capita production and improve the means for storage and distribution of agricultural commodities, and to the extent to which these efforts are being carried out in ways designed to contribute directly to enable the poorest farmers to participate actively in increasing agricultural production, and the improvement of village water systems.

[1] Not printed.

3. Both Delegations agreed that earliest signing of the agreement was essential in order to accomplish commodity purchasing and shipment by 30 September 1981.

4. In reviewing the proposed text of the agreement and in particularly Part II the GDRM Delegation expressed its concern over the Payment Terms and requested consideration for most favorable concessionality. The US Delegation responded that it would consult Washington with a request to negotiate more favorable terms.

5. The GDRM Delegation expressed the objection to the proposed Export Limitation explaining that such a limitation placed extreme financial as well as marketing strains upon the country's economy and its developmental progress and appealed for reconsideration of the complete limitation of rice exports. The US Delegation requested and received additional statistics from the GDRM Delegation. This question was discussed by the Delegations and adherence to these limitations was stressed by the US Delegation.

6. The two Delegations agreed that proposed language of the Self-Help Provisions, Part II, Item V, required modification, refinement and definition.

7. The US Delegation explained the following:

   A. The export market value of US Dollars five (5) million may not be exceeded. This means that if commodity prices increase over that indicated, US Dollars 423.73 per metric ton, the amount to be financed under this agreement will be less than 11,800 metric tons. However, should commodity prices decline at time of purchase, GDRM may utilize the total market value of US Dollars 5 million.

B. To implement this agreement in a most expeditious manner the GDRM should authorize an appropriate representative at the GDRM Embassy in Washington and/or dispatch a fully authorized GDRM representative to Washington to undertake all the required action. This action will include but not be limited to:

(1) Provide a written request to the United States Department of Agriculture, hereinafter referred to as USDA, for a Purchase Authorization under the signed agreement;

(2) Prepare and issue, after approval by the USDA, an invitation for bid (IFB) which will be publically advertised in the US;

(3) Designate both Madagascar bank and US bank(s) which will handle the letters of credit (L/C);

(4) Act expeditiously to open L/C's in favor of supplier(s) of grain and of freight for 100 percent of the grain and ocean freight costs.

(The US Delegation explained to the GDRM the requirement to open a letter of credit for 100 percent of the grain as follows: "GDRM opens a letter of credit for full amount of commodity in favor of U.S. exporter. CCC issues a letter of commitment for 95 percent of the amount against the letter of credit, the remaining 5 percent is equivalent to GDRM's initial payment". This was the best interpretation of operational guidelines available to the US negotiators at the time. The GDRM Delegation understands that this interpretation is subject to further refinement within the terms of the agreement.)

C. Under current United States regulatory and legislative requirements:

(1) Commodities will be made available under this agreement after USDA has determined that (a) adequate storage facilities are available in Madagascar at the time of exportation to prevent the spoilage or waste of the commodity, and (b) the distribution of the rice in Madagascar will not result in a substantial disincentive to or interference with domestic production or marketing.

(2) Purchase of rice under this agreement must be made on the basis of invitations for bids (IFB's) approved by USDA and publicly advertised in the US and on the basis of bids (offers) which must conform to the IFB's. Bids must be received and publicly opened in the United States. All awards under IFB's must be consistent with open, competitive and responsive bid procedures. Final awards must be approved by USDA.

(3) If a Purchasing Agent and/or Shipping Agent is designated, this designation must be submitted to the USDA in writing accompanied by the proposed agency agreement for USDA approval.

(4) Fees, commissions, or other payments to any selling agent seeking to obtain a contract for the purchase of food commodities under this agreement are prohibited;

D. Regarding ocean freight:

(1) At least fifty (50) percent of the rice purchased

under this agreement is to be shipped on US flag vessels, if available at fair and reasonable rates.

(2) On that portion of rice purchased under this agreement, the Commodity Credit Corporation (CCC) will reimburse the GDRM the ocean freight differential, if any, as established by USDA, existing between US flag vessels approved rate and the prevailing foreign flag vessel rate.

E. Reporting requirements: Reporting is an essential part of a PL 480 Title I agreement. In addition to the fiscal reporting regarding sales proceeds deposit and expenditure from the special account and meetings regarding self-help project activity the following reports are required:

(1) Quarterly compliance reporting on meeting the usual marketing requirements (UMR) and export limitation verification. This quarterly reporting requirement continues through the supply period (U.S. Fiscal Year) in which commodities under this agreement and subsequent agreements are imported and/or utilized;

(2) Shipping and arrival reports as verified by automated data processed (ADP) sheets provided by the USDA through the American Embassy;

(3) Annual report on meeting self-help objectives due on 15 November of each year in which sales proceeds accrue and are disbursed.

F. Regarding Letters of Credit (L/C's):

(1) U.S. commodity and ocean freight suppliers may refuse to load vessels when acceptable L/C's for commodity or ocean freight are not available at the time of loading. This can result in costly claims by vessel owners (demurrage) and by commodity suppliers (carrying charges).

(2) GDRM must open L/C's for 100 percent of ocean freight not later than forty-eight (48) hours prior to vessel presentation for loading, providing for sight payment or acceptance of a draft in U.S. Dollars in favor of the ocean freight supplier on the basis of tonnage and rates specified in the applicable charter party or booking note.

(3) Where ocean freight contract(s) provides for demurrage/despatch, ninety (90) percent of the ocean freight must be paid promptly on arrival of cargo at the first port of discharge. The remaining ten (10) percent, less despatch if any, should be paid promptly to the carrier upon completion of the laytime statement. If there is any dispute as to the amount of despatch, the carrier should receive that portion of the ten (10) percent which is not in dispute. Claims arising against the carrier for damaged or lost cargo should be pursued through normal channels and not be deducted from the ocean freight.

8. The GDRM Delegation informed the US Delegation of the following:

A. that immediately upon signing the agreement the GDRM will designate a purchasing agent and send him to the US as the GDRM representative in all matters pertaining to the purchase and shipment of rice under this agreement;

B. that a Project Manager will be designated and assigned to coordinate all activities of this agreement;

C. that a special account in the Central Bank of Madagascar will be opened by the GDRM. This account will receive and disburse the Sales Proceeds accruing under this agreement. The sales proceeds of the rice obtained under this agreement will be deposited to this account. Sales proceeds will be deposited at periodic intervals to assure timely implementation of the Self-Help Measures, Part II, Item V.

9. The Banks designated to handle these transactions are: the Central Bank of Madagascar, Antananarivo, Madagascar; and Chase Manhattan Bank, New York, New York.

10. The GDRM Delegation advised that SINPA (Societe d'Interet Nationale des Produits Agricoles) has been delegated authority to negotiate and conclude all commercial imports. SINPA is the receiving agency and the coordinating body for the distribution of rice either to the fokontanys directly or to other parastatals which will then distribute the rice to the fokontanys in their assigned geographic areas. Imported rice under PL 480 passes from the direct control of parastatals directly to the fokontanys and to the consumer at the official prices in force, within existing laws in force.

It was understood that the US Government representative will be regularly informed of the operations relative to this agreement (receiving, storage, distribution, and self-help activities).

These minutes have been executed in the English and French Languages and in case of any conflict the English version will prevail.

Initialed:

For the Government of the United States of America

William J. BOUDREAU
Charge d'Affaires a.i.

Date: August 19, 1981

For the Government of the Democratic Republic of Madagascar,

RAJAONA ANDRIAMANANJARA
Directeur Général du Plan

Date: August 19, 1981

COMPTE-RENDU DES REUNIONS DE NEGOCIATIONS
ENTRE LES PARTIES
AU PROGRAMME LOI PUBLIQUE 480 TITRE I

Année Fiscale Américaine 1981, Vente de Riz

PARTICIPANTS:

Une liste des participants aux réunions de négociations est jointe en annexe à ce compte-rendu.

INTRODUCTION

Ce compte-rendu reflète les discussions qui se sont déroulées pendant plusieurs réunions de négociations ayant eu lieu à Antananarivo en République Démocratique de Madagascar, auxquelles ont participé des techniciens désignés par le Gouvernement de la République Démocratique de Madagascar, ci-après désignés la Délégation du GRDM, d'une part, et ceux de la Délégation du Gouvernement des Etats-Unis d'Amérique, ci-après dénommés la Délégation Américaine, d'autre part avant la signature de l'accord.

NEGOCIATIONS

1. Les réunions de négociations ont été ouvertes par des propos de bienvenue tenus par le Directeur Général du Plan, Ministère des Finances et du Plan, auxquels a répondu le Chargé d'Affaires de l'Ambassade Américaine.

2. La Délégation Américaine a expliqué qu'avant de conclure le présent accord, elle a pris en considération les études qui ont été déjà entreprises par le GRDM pour augmenter la production per

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capita et améliorer les moyens de stockage et de distribution des produits agricoles de façon à contribuer directement au développement dans les zones rurales et à permettre aux paysans les plus démunis de participer activement à l'accroissement de la production agricole et à l'amélioration du système d'adduction d'eau.

3. Les deux Délégations ont convenu que la signature de l'accord dans un meilleur délai est essentiel afin de réaliser les opérations d'achat et de chargement du produit avant le 30 septembre.

4. En revisant le projet de texte de l'accord et en particulier de la Partie II la Délégation du GRDM a exprimé sa préoccupation concernant les Modalités de Paiement et a demandé à ce qu'on envisage des conditions plus favorables. La Délégation Américaine a répondu qu'elle consulterait Washington en soumettant une demande tendant à négocier de telles conditions.

5. La Délégation du GRDM a exprimé une objection à la section proposée portant sur la Limitation des Exportations, en expliquant qu'une telle limitation serait trop demander sur le plan financier et de la commercialisation à l'économie du pays et aux réalisations de son programme de développement, et elle a demandé à ce qu'on ré-examine la question de la limitation totale des exportations de riz. La Délégation Américaine a demandé à la Délégation du GRDM et obtenu des statistiques supplémentaires. Les Délégations ont discuté cette question et la Délégation Américaine a insisté pour maintenir ces

limitations.

6. Les deux Délégations se sont mis d'accord que la formulation proposée pour les Dispositions d'Auto-Assistance, Partie II, Point V demande à être modifiée, mise au point et redéfinie.

7. La Délégation Américaine a expliqué ce qui suit:

A. La valeur marchande du produit exporté ne doit pas excéder les 5 millions dollars des Etats-Unis. Cela veut dire que si les prix du produit augmentent au-dessus de celui indiqué, 423,73 dollars des Etats-Unis par tonne métrique, la quantité à financer au titre du présent accord sera inférieure à 11.800 tonnes métriques. Toutefois, si les prix du produit baissaient au moment de l'achat, le GRDM pourrait utiliser la valeur totale de 5 millions de dollars des Etats-Unis sur le marché.

B. Pour la mise en oeuvre dans le meilleur délai possible du présent accord le GRDM devrait donner l'autorisation à un représentant compétent à l'Ambassade du GRDM à Washington et/ou envoyer un représentant du GRDM dûment autorisé à Washington pour entreprendre toute action requise. Cette action consistera entre autres à:

(1) Fournir une demande écrite au Département de l'Agriculture des Etats-Unis (ci-après dénommé USDA) pour une Autorisation d'Achat au titre de l'accord signé;

(2) Préparer et publier, après avis favorable de l'USDA, un appel d'offres qui sera annoncé publiquement aux Etats-Unis;

(3) Désigner une banque malgache et une ou des banques américaines qui règleront les opérations relatives aux lettres de crédit (L/C);

(4) Agir rapidement pour ouvrir les lettres de crédit en faveur du(des) fournisseur(s) et transporteur(s) du produit et couvrant la totalité des prix du produit et du frêt maritime.

(La Délégation Américaine a expliqué à la Délégation du GRDM la nécessité d'ouvrir une lettre de crédit couvrant la totalité des grains comme suit: "Le GRDM ouvre une lettre de crédit pour la valeur totale du produit en faveur de l'exportateur américain. La CCC émet une lettre d'engagement pour 95 pour cent de la valeur en regard de la lettre de crédit, le 5 pour cent restant étant l'équivalent du paiement initial du GRDM." C'était la meilleure interprétation des directives opérationnelles à la disposition des négociateurs américains à l'heure actuelle. La Délégation du GRDM comprend que cette interprétation peut faire l'objet d'une mise au point supplémentaire dans le cadre des conditions de l'accord.)

C. Dans le cadre des dispositions réglementaires et législatives des Etats-Unis:

(1) Les denrées ne sont fournies au titre du présent accord qu'après que l'USDA aura déterminé que (a) des installations de stockage adéquates sont disponibles à Madagascar au moment de l'exportation pour éviter les avaries ou pertes du produit et (b) que cette opération

n'aura pas comme résultat de freiner la production locale de riz ou d'en perturber la commercialisation.

(2) L'achat de riz au titre du présent accord doit s'effectuer sur la base d'appels d'offres annoncés publiquement aux Etats-Unis et sur la base de soumissions conformes aux appels d'offres. Les soumissions doivent être reçues et ouvertes publiquement aux Etats-Unis. Toutes les adjudications au titre des appels d'offres doivent être conformes aux procédures de soumission faisant appel à la concurrence. Les adjudications finales doivent être approuvées par l'USDA.

(3) Si un Agent d'Achat et/ou un Agent de transport maritime est désigné, cette désignation doit être soumise par écrit à l'approbation de l'USDA, accompagnée du projet d'accord de l'agence proposée.

(4) Tous frais, commissions ou autres paiements à tout agent de vente qui veut obtenir un contrat pour l'achat des denrées alimentaires au titre du présent accord sont prohibés.

D. Du Transport Maritime:

(1) Au moins cinquante (50) pour cent du riz acheté au titre du présent accord doit être expédié à bord de navires battant pavillon des Etats-Unis, s'ils sont disponibles à des taux équitables et raisonnables;

(2) Sur cette tranche de riz acheté au titre du présent accord, la CCC remboursera au GRDM le différentiel sur le transport maritime, s'il

y a lieu, tel qu'il est établi par l'USDA, existant entre le taux convenu des navires battant pavillon des Etats-Unis et celui en vigueur de navires étrangers.

E. Exigences portant sur les Rapports: Le rapport est une partie essentielle d'un accord PL 480 Titre I. Outre le rapport sur le compte spécial concernant le dépôt des produits des ventes et les dépenses pour l'année fiscale américaine, et les réunions relatives aux réalisations des projets d'auto-assistance, les rapports suivants sont exigibles:

(1) Rapport trimestriel conforme portant sur la manière de remplir les conditions habituelles de commercialisation et sur la vérification de la limitation des exportations. Cette exigence de rapport trimestriel s'étend sur la période de livraison (Année Fiscale des Etats-Unis) au cours de laquelle les denrées au titre du présent accord et des accords ultérieurs sont importées ou utilisées;

(2) Les rapports sur le chargement et l'arrivée qui sont vérifiés par des relevés automatiques des données, fournis par l'USDA par le biais de l'Ambassade Américaine;

(3) Rapport annuel sur l'état de réalisation des objectifs d'auto-assistance, qui doit être soumis le 15 novembre de chaque année durant laquelle les produits des ventes sont accumulés et débloqués.

F. Des Lettres de Crédit (L/C):

(1) Les fournisseurs des denrées et les armateurs américains peuvent refuser de charger le navire

lorsqu'il appert que des lettres de crédit acceptables pour le produit ou le transport maritime ne sont pas disponibles au moment du chargement. Il peut en résulter des réclamations de dommages et intérêts coûteux de la part des armateurs (surestaries) et des fournisseurs des denrées (carrying charges);

(2) Le GRDM doit ouvrir des lettres de crédit couvrant la totalité du transport maritime au plus tard 48 heures avant la présentation du navire pour chargement, prévoyant un paiement à vue ou l'acceptation d'une traite en dollars des Etats-Unis en faveur de l'armateur sur la base du tonnage et des taux spécifiés dans la charte partie en vigueur relative à l'affrètement d'un navire ou dans les livres d'enregistrement;

(3) Chaque fois qu'un(des) contrat(s) de transport maritime prévoient des surestaries ou des primes de célérité, quatre vingt dix (90) pour cent du transport maritime doit être payé tout de suite à l'arrivée de la cargaison au premier port de débarquement. Le dix (10) pour cent restant, moins les frais de retard dans le chargement, s'il y a lieu, devrait être payé immédiatement au transporteur après la rédaction du procès-verbal sur les jours de staries. S'il y a un conflit quelconque concernant le montant des frais de retard dans le chargement, le transporteur devrait recevoir cette partie de dix (10) pour cent qui ne fait pas l'objet de contestation. Les

réclamations de dommages et intérêts à l'encontre du transporteur pour la cargaison endommagée ou perdue devraient être poursuivies par la voie normale et non déduites des frais du transport.

8. La Délégation du GRDM a informé la Délégation Américaine que:

A. Immédiatement après la signature de l'accord le GRDM désignera un agent d'achat et l'enverra aux Etats-Unis en tant que représentant du GRDM pour s'occuper de toutes les questions touchant l'achat et le chargement du riz au titre du présent accord.

B. Un Directeur de Projet sera désigné et recevra la charge de coordonner toutes les activités du présent accord.

C. Le GRDM ouvrira un compte spécial à la Banque Centrale de Madagascar. Ce compte enregistrera les produits de vente accumulés au titre du présent accord et les dépenses. Les produits de vente du riz obtenu au titre du présent accord seront déposés à ce compte. Les produits de vente seront déposés à des intervalles périodiques pour assurer que les mesures d'auto-assistance, Partie II, Point V, soient exécutées à temps.

9. Les banques désignées pour s'occuper de ces transactions sont: la Banque Centrale de Madagascar et Chase Manhattan Bank, New York, New York.

10. La Délégation du GRDM a fait savoir que la SINPA (Société d'Intérêt Nationale des Produits Agricoles) a reçu délégation pour négocier et conclure toutes les importations commerciales. La SINPA est chargée des opé-

rations de réception ainsi que de la coordination de la distribution du riz soit aux fokontany directement soit à d'autres sociétés d'état qui assureront ensuite la distribution du riz aux fokontany dans les zones géographiques qui leur sont assignées. Le riz importé au titre de la Loi Publique 480 sera vendu par les sociétés d'état aux fokontany et aux consommateurs directement aux prix officiels dans le cadre des lois et réglementations en vigueur.

Il a été entendu que les représentants du Gouvernement des Etats-Unis seront régulièrement informés du déroulement des opérations relatives au programme PL 480 Titre I (réception, stockage, distribution, activités d'auto-assistance).

Ce procès-verbal a été établi en Anglais et en Français et, en cas de conflit, la version anglaise prévaudra.

Paraphé:

Pour le Gouvernement de la République Démocratique de Madagascar:

RAJAONA ANDRIAMANANJARA,
Directeur Général du Plan

Date: Le 19 Août 1981

Pour le Gouvernement des Etats-Unis d'Amérique:

William J. BOUDREAU,
Chargé d'Affaires a.i.

Date: Le 19 Août 1981

INDONESIA

Atomic Energy: Peaceful Uses of Nuclear Energy

Agreement signed at Washington June 30, 1980;
Entered into force December 30, 1981.
With agreed minute.

AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY

The Government of the United States of America and the Government of the Republic of Indonesia,

Mindful that both the United States and Indonesia are Parties to the Treaty on the Non-Proliferation of Nuclear Weapons[1] (hereinafter referred to as "NPT") and desire to promote universal adherence to the NPT;

Reaffirming their commitment to ensuring that the international development and use of nuclear energy for peaceful purposes are carried out under arrangements which will to the maximum possible extent further the objectives of the NPT;

Affirming their support of the objectives of the International Atomic Energy Agency (hereinafter referred to as "IAEA");

Considering their cooperation in the development, use and control of peaceful uses of nuclear energy pursuant to the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Civil Uses of Atomic Energy, signed June 8, 1960, as amended;[2]

Desiring to continue and expand their cooperation in this field; and

Mindful that peaceful nuclear activities must be undertaken with a view to protecting the international environment from radioactive, chemical and thermal contamination;

Have agreed as follows:

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[1] Done July 1, 1968. TIAS 6839; 21 UST 483.

[2] TIAS 4557, 6124, 7001, 10053; 11 UST 2024; 17 UST 1652; 21 UST 2590; *ante*, p. 523.

Article 1
Scope of Cooperation

1. The United States and Indonesia shall cooperate in the use of nuclear energy for peaceful purposes in accordance with the provisions of this Agreement and their applicable treaties, national laws, regulations and license requirements.

2. Transfers of information, material, equipment and components under this Agreement may be undertaken directly between the Parties or through authorized persons. Such transfers shall be subject to this Agreement and to such additional terms and conditions as may be agreed by the Parties.

Article 2
Definitions

For the purposes of this Agreement:

(a) "byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

(b) "component" means a component part of equipment or other item, so designated by agreement of the Parties;

(c) "equipment" means any reactor other than one designed or used primarily for the formation of plutonium or uranium 233, or any other item so designated by agreement of the Parties;

(d) "high enriched uranium" means uranium enriched to twenty (20) percent or greater in the isotope 235;

(e) "low enriched uranium" means uranium enriched to less than twenty (20) percent in the isotope 235;

(f) "major critical component" means any part or group of parts essential to the operation of a sensitive nuclear facility;

(g) "material" means source material, special nuclear material or byproduct material, radioisotopes other than byproduct material, moderator material, or any other such substance so designated by agreement of the Parties;

(h) "moderator material" means heavy water, or graphite or beryllium of a purity suitable for use in a reactor to slow down high velocity neutrons and increase the likelihood of further fission, or any other such material so designated by agreement of the Parties;

(i) "Parties" means the Government of the United States of America and the Government of the Republic of Indonesia;

(j) "peaceful purposes" include the use of information, material, equipment and components in such fields as research, power generation, medicine, agriculture and industry but do not include use in, research on or development of any nuclear explosive device, or any military purpose;

(k) "person" means any individual or any entity subject to the jurisdiction of either Party but does not include the Parties to this Agreement;

(l) "previous Agreement" means the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Civil Uses of Atomic Energy, signed June 8, 1960, as amended;

(m) "reactor" means any apparatus, other than a nuclear weapon or other nuclear explosive device, in which a self-sustaining fission chain reaction is maintained by utilizing uranium, plutonium or thorium, or any combination thereof;

(n) "restricted data" means all data concerning (1) design, manufacture or utilization of nuclear weapons, (2) the production of special nuclear material, or (3) the use of special nuclear material in the production of energy, but shall not include data of a Party which it has declassified or removed from the category of restricted data;

(o) "sensitive nuclear facility" means any facility designed or used primarily for uranium enrichment, reprocessing of nuclear fuel, heavy water production, or fabrication of nuclear fuel containing plutonium;

(p) "sensitive nuclear technology" means any information (including information incorporated in equipment or an important component) which is not in the public domain and which is important to the design, construction, fabrication, operation or maintenance of any sensitive nuclear facility, or other such information which may be so designated by agreement of the Parties;

(q) "source material" means (1) uranium, thorium, or any other material so designated by agreement of the Parties, or (2) ores containing one or more of the foregoing materials in such concentration as the Parties may agree from time to time;

(r) "special nuclear material" means (1) plutonium, uranium 233, or uranium enriched in the isotope 235, or (2) any other material so designated by agreement of the Parties.

Article 3
Transfer of Information

1. Information concerning the use of nuclear energy for peaceful purposes may be transferred. Fields which may be covered include, but shall not be limited to, the following:

(a) development, design, construction, operation, maintenance and use of reactors and reactor experiments;

(b) the use of material in physical and biological research, medicine, agriculture and industry;

(c) fuel cycle studies of ways to meet future worldwide civil nuclear needs, including multilateral approaches to guaranteeing nuclear fuel supply and appropriate techniques for management of nuclear wastes;

(d) safeguards and physical security of material and equipment;

(e) health, safety and environmental considerations related to the foregoing;

(f) assessing the role nuclear power may play in national energy plans; and

(g) exploration for and development of uranium resources.

2. This Agreement does not require the transfer of any information which the Parties are not permitted to transfer.

3. Restricted data shall not be transferred under this Agreement.

4. Sensitive nuclear technology shall not be transferred under this Agreement unless provided by an amendment to this Agreement.

Article 4
Transfer of Material, Equipment and Components

1. Material, equipment and components may be transferred for applications consistent with this Agreement. However, sensitive nuclear facilities and major critical components shall not be transferred under this Agreement unless provided by an amendment to this Agreement.

2. Low enriched uranium may be transferred for use as fuel in reactor experiments and in reactors, for conversion or fabrication, or for such other purposes as may be agreed by the Parties.

3. Special nuclear material other than low enriched uranium and material contemplated under paragraph 6 may, if the Parties agree, be transferred for specified applications where technically and economically justified or where justified for the development and demonstration of reactor fuel cycles to meet energy security and non-proliferation objectives.

4. The quantity of special nuclear material transferred under this Agreement shall not at any time be in excess of the quantity the Parties agree is necessary for any of the following purposes: use in reactor experiments or the loading of reactors, the efficient and continuous conduct of such reactor experiments or operation of such reactors, and the accomplishment of other purposes as may be agreed by the Parties. If high enriched uranium in excess of the quantity required for these purposes exists in Indonesia, the United States shall have the right to require the return of any high

enriched uranium transferred pursuant to this Agreement (including irradiated high enriched uranium) which contributes to this excess. If this right is exercised, the Parties shall make appropriate commercial arrangements which shall not be subject to any further agreement between the Parties as otherwise contemplated under Articles 5 and 6.

5. Any high enriched uranium transferred pursuant to this Agreement shall not be at a level of enrichment in the isotope 235 in excess of levels to which the Parties agree are necessary for the purposes described in paragraph 4.

6. Small quantities of special nuclear material may be transferred for use as samples, standards, detectors, targets and for such other purposes as the Parties may agree. Transfers pursuant to this paragraph shall not be subject to the quantity limitations in paragraph 4.

7. The United States shall take such actions as necessary and feasible to ensure a reliable supply of nuclear fuel to Indonesia, including the export of nuclear material on a timely basis and the availability of the capacity to carry out this undertaking during the period of this Agreement.

Article 5
Storage and Retransfers

1. Each Party guarantees that any plutonium or uranium 233 (except as contained in irradiated fuel elements) or high enriched uranium transferred to and under its jurisdiction pursuant to this Agreement or used in or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this Agreement shall be stored only in a facility that has been agreed to in advance by the Parties.

2. Each Party guarantees that any material, equipment or components transferred to and under its jurisdiction pursuant to this Agreement and any special nuclear material produced through the use of any such material or equipment shall not be transferred to unauthorized persons or, unless the Parties agree, beyond its territorial jurisdiction.

Article 6
Reprocessing and Enrichment

1. Each Party guarantees that material transferred to and under its jurisdiction pursuant to this Agreement and material used in or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this Agreement shall not be reprocessed unless the Parties agree.

2. Each Party guarantees that any plutonium, uranium 233, high enriched uranium or irradiated source or special nuclear material transferred to and under its jurisdiction pursuant to this Agreement or used in or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this Agreement shall not be altered in form or content, except by irradiation or further irradiation, unless the Parties agree.

3. Each Party guarantees that uranium transferred to and under its jurisdiction pursuant to this Agreement and uranium used in any equipment transferred to and under its jurisdiction pursuant to this Agreement shall not be enriched after transfer unless the Parties agree.

Article 7
Physical Security

1. Each Party guarantees that adequate physical security shall be maintained with respect to any material and equipment transferred to and under its jurisdiction pursuant to this Agreement and with respect to any special nuclear material used in or produced through the use of any material or equipment transferred to and under its jurisdiction pursuant to this Agreement.

2. The Parties agree to the levels for the application of physical security set forth in the Annex, which levels may be modified by mutual consent of the Parties. The Parties shall maintain adequate physical security measures in accordance with such levels. These measures shall as a minimum provide protection comparable to the recommendations set forth in IAEA document INFCIRC/225/Revision 1 concerning the physical protection of nuclear material, or in any revision of that document agreed to by the Parties.

3. The adequacy of physical security measures maintained pursuant to this Article shall be subject to review and consultation by the Parties periodically and whenever either Party is of the view that revised measures may be required to maintain adequate physical security.

4. Each Party shall identify those agencies or authorities having responsibility for ensuring that levels of physical security are adequately met and having responsibility for coordinating response and recovery operations in the event of unauthorized use or handling of material subject to this Article. Each Party shall also designate points of contact within its national authorities to cooperate on matters of out-of-country transportation and other matters of mutual concern.

5. The provisions of this Article shall be implemented in such a manner as to avoid hampering, delay or undue interference in the Parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 8
No Explosive or Military Application

Each Party guarantees that no material, equipment or component transferred to and under its jurisdiction pursuant to this Agreement and no material used in or produced through the use of any material, equipment or components transferred to and under its jurisdiction pursuant to this Agreement shall be used for any nuclear explosive device, for research on or development of any nuclear explosive device, or for any military purpose.

Article 9
Safeguards

1. Cooperation under this Agreement shall require the application of IAEA safeguards with respect to all nuclear activities within the territory of Indonesia, under its jurisdiction or carried out under its control anywhere. Implementation of a safeguards agreement pursuant to Article III (4) of the NPT shall be considered to fulfill the requirement stated in the foregoing sentence.

2. Material transferred to Indonesia pursuant to this Agreement and any source or special nuclear material used in or produced through the use of any material, equipment or components so transferred shall be subject to safeguards in accordance with the Agreement between Indonesia and the IAEA for the application of safeguards in connection with the NPT.[1]

3. If the United States or Indonesia becomes aware of circumstances which demonstrate that the IAEA for any reason is not or will not be applying safeguards in accordance with the agreement as provided for in paragraph 2, the Party shall inform the other and, to ensure effective continuity of safeguards, the Parties shall immediately enter into arrangements which conform with IAEA safeguards principles and procedures and with the coverage required by that paragraph and which provide assurance equivalent to that intended to be secured by the system they replace.

4. Each Party guarantees it shall take such measures as are necessary to maintain and facilitate the application of safeguards provided for under this Article.

[1] Signed July 14, 1980. IAEA doc. INFCIRC/283, Sept., 1980.

5. Each Party shall establish and maintain a system of accounting for and control of all material transferred pursuant to this Agreement and any material used in or produced through the use of any material, equipment or components so tranferred, the procedures of which shall be comparable to those set forth in IAEA document INFCIRC/153 (corrected), or in any revision of that document agreed to by the Parties.

6. Upon the request of either Party, the other Party shall report or permit the IAEA to report to the requesting Party on the status of all inventories of any materials subject to this Agreement.

7. The provisions of this Article shall be implemented in such a manner as to avoid hampering, delay or undue interference in the Parties' nuclear activities and so as to be consistent with prudent management practices required for the economic and safe conduct of their nuclear programs.

Article 10
Multiple Supplier Controls

If an agreement between either Party and another nation or group of nations provides such other nation or group of nations rights equivalent to any or all of those set forth under Articles 5, 6, or 7 with respect to material, equipment or components subject to this Agreement, the Parties may, upon the request of either of them, agree that the implementation of any such rights will be accomplished by such other nation or group of nations.

Article 11
Cessation of Cooperation

1. If either Party at any time following entry into force of this Agreement

(a) does not comply with the provisions of Articles 5, 6, 7, 8, or 9, or

(b) terminates, abrogates or materially violates a safeguards agreement with the IAEA,

the other Party shall have the rights to cease further cooperation under this Agreement and to require the return of any material, equipment and components transferred under this Agreement and any special nuclear material produced through their use.

2. If Indonesia at any time following entry into force of this Agreement detonates a nuclear explosive device, the United States shall have the same rights as specified in paragraph 1.

3. If either Party exercises its rights under this Article to require the return of any material, equipment or components, it shall, after removal from the territory of the other Party, reimburse the other Party for the fair market value of such material, equipment or components. In the event this right is exercised, the Parties shall make such other appropriate arrangements as may be required which shall not be subject to any further agreement between the Parties as otherwise contemplated under Articles 5 and 6.

Article 12
Previous Agreement Terminated

1. The Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Civil Uses of Atomic Energy signed June 8, 1960, as amended, shall terminate on the date this Agreement enters into force.

2. Cooperation initiated under the previous Agreement shall continue in accordance with the provisions of this Agreement. The provisions of this Agreement shall apply to material and equipment subject to the previous Agreement.

Article 13
Consultations and Environmental Protection

1. The Parties undertake to consult at the request of either Party regarding the interpretation or implementation of this Agreement and the development of further cooperation in the field of peaceful uses of nuclear energy. If differences arise between the Parties concerning interpretation or implementation of this Agreement, the Parties shall consult with a view to resolving them amicably.

2. The Parties shall consult, with regard to activities under this Agreement, to identify the international environmental implications arising from such activities and shall cooperate in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities under this Agreement and in related matters of health and safety.

Article 14
Entry into Force and Duration

1. Each Party shall provide the other Party with written notification that it has complied with its legal requirements for entry into force of this Agreement. This Agreement shall enter into force on the date of the latter notification [1] and shall remain in force for a period of ten (10) years. This term may be extended for such additional periods as may be agreed between the Parties in accordance with their legal requirements.

2. Notwithstanding the suspension, termination or expiration of this Agreement or any cooperation hereunder for any reason, Articles 5, 6, 7, 8, 9, and 11 shall continue in effect so long as any material, equipment or components subject to these Articles remains in the territory of the Party concerned or under its jurisdiction or control anywhere, or until such time as the Parties agree that such material, equipment or components are no longer useable for any nuclear activity relevant from the point of view of safeguards.

[1] Dec. 30, 1981.

IN WITNESS WHEREOF, the undersigned being duly authorized by their respective governments, have signed this Agreement.

DONE at Washington this 30th day of June, 1980, in duplicate, in the English and Indonesian languages, each being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

[1]

FOR THE GOVERNMENT OF THE REPUBLIC OF INDONESIA:

[2]

[1] Thomas R. Pickering.
[2] D. Ashari.

ANNEX

Pursuant to paragraph 2 of Article 7, the agreed levels of physical security to be ensured by the competent national authorities in the use, storage and transportation of the materials listed in the attached table shall as a minimum include protection characteristics as below.

Category III

Use and storage within an area to which access is controlled.

Transportation under special precautions including prior arrangements among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient states, respectively, in case of international transport specifying time, place and procedures for transferring transport responsibility.

Category II

Use and storage within a protected area to which access is controlled, i.e., an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control, or any area with an equivalent level of physical protection.

Transportation under special precautions including prior arrangements among sender, recipient and carrier, and prior agreement between entities subject to the jurisdiction and regulation of supplier and recipient states, respectively, in case of international transport, specifying time, place and procedures for transferring transport responsibility.

Category I

Material in this category shall be protected with highly reliable systems against unauthorized use as follows:

Use and storage within a highly protected area, i.e., a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their objective the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

Transportation under special precautions as identified above for transportation of Categories II and III materials and, in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces.

TABLE: CATEGORIZATION OF NUCLEAR MATERIAL[e]

Material	Form	Category I	Category II	Category III
1. Plutonium[a,f]	Unirradiated[b]	2 kg or more	Less than 2 kg but more than 500 g	500 g or less[c]
2. Uranium-235[d]	Unirradiated[b]			
	– uranium enriched to 20% ^{235}U or more	5 kg or more	Less than 5 kg but more than 1 kg	1 kg or less[c]
	– uranium enriched to 10% ^{235}U but less than 20%	–	10 kg or more	Less than 10 kg[c]
	– uranium enriched above natural, but less than 10% ^{235}U	–	–	10 kg or more
3. Uranium-233	Unirradiated[b]	2 kg or more	Less than 2 kg but more than 500 g	500 g or less[c]

[a] All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.

[b] Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one meter unshielded.

[c] Less than a radiologically significant quantity should be exempted.

[d] Natural uranium, depleted uranium and thorium and quantities of uranium enriched to less than 10% not falling in Category III should be protected in accordance with prudent management practice.

[e] Irradiated fuel should be protected as Category I, II or III nuclear material depending on the category of the fresh fuel. However, fuel which by virtue of its original fissile material content is included as Category I or II before irradiation should only be reduced one Category level, while the radiation level from the fuel exceeds 100 rads/h at one meter unshielded.

[f] The State's competent authority should determine if there is a credible threat to disperse plutonium maleveolently. The State should then apply physical protection requirements for category I, II or III of nuclear material, as it deems appropriate and without regard to the plutonium quantity specified under each category herein, to the plutonium isotopes in those quantities and forms determined by the State to fall within the scope of the credible dispersal threat.

[Footnotes in the original.]

AGREED MINUTE

During the negotiation of the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy (hereinafter referred to as "Agreement") signed today, the following understandings, which shall be an integral part of the Agreement, were reached.

Coverage of Agreement

Material, equipment and components transferred from the territory of one Party to the territory of the other Party for peaceful purposes, whether directly or through a third country, shall be regarded as having been transferred pursuant to the Agreement only upon confirmation by the appropriate government authority of the recipient Party to the appropriate government authority of the supplier Party, that such material, equipment or components shall be subject to the Agreement.

For the purpose of implementing the rights specified in Articles 5, 6 and 7 with respect to special nuclear material produced through the use of material transferred pursuant to the Agreement and not used in or produced through the use of equipment transferred pursuant to the Agreement, such rights shall in practice be applied to that proportion of special nuclear material produced which represents the ratio of transferred material used in the production of the special nuclear material to the total amount of material so used, and similarly for subsequent generations.

Safeguards

If either Party becomes aware of circumstances referred to in paragraph 3 of Article 9, following consultation with Indonesia, the United States shall be permitted to conduct the activities listed below unless the United States agrees that the need to conduct such activities is being satisfied by the application of IAEA safeguards under arrangements pursuant to paragraph 3 of Article 9:

(1) to review in a timely fashion the design of any equipment transferred pursuant to the Agreement, or of any facility which is to use, fabricate, process or store any material so transferred or any special nuclear material used in or produced through the use of such material or equipment;

(2) to require the maintenance and production of records and of relevant reports for the purpose of assisting in ensuring accountability for material transferred pursuant to the Agreement and any source material or special nuclear material used in or produced through the use of any material, equipment or components so transferred; and

(3) to designate personnel, in consultation with Indonesia, who shall have access to all places and data necessary to account for the material in paragraph (2), to inspect any equipment or facility referred to in paragraph (1), and to install any devices and make such independent measurements as may be deemed necessary to account for such material. Such personnel shall be accompanied by personnel designated by Indonesia.

With reference to Article 9, it is confirmed that design information relevant to safeguards for new equipment or facilities where safeguards will be required under the Agreement shall be provided to the IAEA in a timely fashion upon its request.

Transitional Arrangements

With reference to paragraphs 1 and 2 of Article 7, while most facilities in the United States provide physical protection comparable to that specified for materials classified as category II and III in the table attached to the Annex, the regulations of the United States with respect to physical protection of these materials do not require implementation until July 1980. If any proposed recipient of category II or III material transferred pursuant to the Agreement does not provide physical protection as a minimum comparable to that set forth in INFCIRC/225/Revision 1, the United States shall so inform Indonesia prior to shipment of such material and seek interim arrangements satisfactory to both Parties.

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With respect to paragraph 2 of Article 12, in order to facilitate the application of the provisions of this Agreement, the Parties shall establish a list of such material and equipment.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE REPUBLIC OF INDONESIA:

Persetujuan Kerjasama
antara
Pemerintah Amerika Serikat
dan
Pemerintah Republik Indonesia
tentang
Penggunaan Tenaga Nuklir
Untuk Maksud-Maksud Damai.

Pemerintah Amerika Serikat
dan
Pemerintah Republik Indonesia,

Mengingat bahwa Amerika Serikat dan Indonesia kedua-duanya adalah Peserta Perjanjian mengenai Pencegahan Penyebaran Senjata-senjata Nuklir (selanjutnya disebut "NPT") dan berhasrat untuk mendorong kepatuhan secara universal pada NPT;

Menegaskan lagi kesanggupan mereka untuk menjamin bahwa perkembangan internasional dan penggunaan tenaga nuklir untuk maksud-maksud damai dilaksanakan dengan pengaturan-pengaturan yang sedapat mungkin akan mendorong lebih jauh tujuan-tujuan NPT;

Menegaskan dukungan mereka terhadap tujuan-tujuan Badan Tenaga Atom Internasional (selanjutnya disebut "IAEA");

Mempertimbangkan kerjasama mereka dalam pengembangan, penggunaan dan pengawasan penggunaan tenaga nuklir untuk maksud-maksud damai sesuai dengan Persetujuan Kerjasama antara Pemerintah Amerika Serikat dan Pemerintah Republik Indonesia tentang Penggunaan Tenaga Nuklir untuk Maksud-maksud Damai, tertanggal 8 Juni 1960, sebagaimana telah diamendir;

Berhasrat untuk melanjutkan dan memperluas kerjasama mereka dibidang ini; dan

Mengingat bahwa kegiatan nuklir secara damai harus dilakukan dengan tujuan untuk melindungi lingkungan hidup internasional dari pencemaran radioaktif, kimia dan termal;

Telah menyetujui sebagai berikut :

Pasal 1.

Ruang Lingkup Kerjasama

1. Amerika Serikat dan Indonesia akan bekerjasama dalam penggunaan tenaga nuklir untuk maksud-maksud damai sesuai dengan ketentuan-ketentuan Persetujuan ini dan perjanjian-perjanjian, hukum nasional, peraturan dan persyaratan perizinan mereka masing-masing yang berlaku.

2. Alih keterangan, bahan, peralatan dan komponen dalam Persetujuan ini dapat dilakukan secara langsung antara Pihak-pihak atau melalui orang-orang yang diberi kuasa untuk itu. Pengalihan tersebut akan diatur dalam Persetujuan ini dan dalam syarat-syarat tambahan yang dapat disetujui oleh kedua Pihak.

Pasal 2.

Definisi

Untuk maksud-maksud perjanjian ini :

(a). "bahan hasil samping" adalah setiap bahan radioaktif (kecuali bahan nuklir khusus) yang dihasilkan atau dibuat radioaktif karena penyingkapan terhadap radiasi yang timbul pada proses pembuatan atau penggunaan bahan nuklir khusus;

(b). "komponen" adalah suatu bagian dari peralatan atau barang-barang lain yang dinyatakan demikian dengan persetujuan kedua Pihak;

(c). "peralatan" adalah setiap reaktor selain yang didisain atau dipakai terutama untuk menghasilkan plutonium atau uranium 233, atau setiap barang lain yang dinyatakan demikian dengan persetujuan kedua Pihak;

(d). "uranium diperkaya tinggi" adalah uranium yang diperkaya sampai (20%) dua puluh persen atau lebih, dalam isotop 235;

(e). "uranium diperkaya rendah" adalah uranium yang diperkaya kurang dari (20%) dua puluh persen dalam isotop 235;

(f). "komponen kritis utama" adalah setiap bagian atau sekelompok bagian yang esensial bagi beroperasinya suatu fasilitas nuklir yang sensitif;

(g). "bahan" adalah bahan sumber tenaga atom, bahan nuklir khusus atau bahan hasil samping, isotop radioaktif selain bahan hasil samping, bahan moderator atau setiap bahan lain semacam itu yang dinyatakan demikian dengan persetujuan kedua Pihak;

(h). "bahan moderator" adalah air berat, atau grafit atau berilium dengan kemurnian yang sesuai untuk dipakai dalam reaktor untuk memperlambat neutron berkecepatan tinggi dan meningkatkan kemungkinan pembelahan selanjutnya, atau setiap bahan lain semacam itu yang dinyatakan demikian dengan persetujuan kedua Pihak;

(i). "Kedua Pihak" adalah Pemerintah Amerika Serikat dan Pemerintah Republik Indonesia;

(j). "maksud-maksud damai" meliputi penggunaan keterangan, bahan, peralatan dan komponen di bidang-bidang seperti riset, pembangkitan tenaga, kedokteran, pertanian dan industri tetapi tidak termasuk penggunaan dalam riset pada atau pengembangan setiap alat peledak nuklir, atau setiap maksud militer;

(k). "subyek hukum" adalah setiap individu atau setiap kesatuan yang tunduk pada jurisdiksi dari salah satu Pihak tetapi tidak termasuk kedua Pihak dalam persetujuan ini;

(l). "Persetujuan sebelumnya" adalah Persetujuan Kerjasama antara Pemerintah Amerika Serikat dan Pemerintah Republik Indonesia tentang Penggunaan Tenaga Atom Untuk Maksud-maksud Damai yang ditandatangani pada 8 Juni 1960 sebagaimana telah diamendir;

(m). "reaktor" adalah setiap alat, selain senjata nuklir atau alat peledak nuklir lainnya, yang di dalamnya berlangsung reaksi pembelahan secara berantai yang bertahankan diri dengan menggunakan uranium, plutonium, atau thorium atau setiap kombinasi daripadanya;

(n). "data terbatas" adalah semua data tentang (1) disain, pembuatan atau penggunaan senjata nuklir, (2) produksi bahan nuklir khusus, atau (3) penggunaan bahan nuklir khusus untuk menghasilkan energi, tetapi tidak termasuk data dari satu Pihak yang telah di-deklasifikasikannya atau dikeluarkan dari kategori data terbatas;

(o). "fasilitas nuklir sensitif" adalah setiap fasilitas nuklir yang didisain atau dipakai terutama untuk pengayaan uranium, proses ulang

bahan bakar nuklir, produksi air berat, atau fabrikasi bahan bakar nuklir yang mengandung plutonium;

(p). "teknologi nuklir sensitif" adalah setiap keterangan (termasuk keterangan yang terkandung dalam peralatan atau suatu komponen penting) yang tidak dikenal umum dan yang penting bagi disain, konstruksi, fabrikasi, operasi atau perawatan setiap fasilitas nuklir sensitif atau keterangan lain semacam itu yang dapat dinyatakan demikian dengan persetujuan kedua Pihak;

(q). "bahan sumber tenaga atom" adalah (1) uranium, thorium atau setiap bahan lain yang dinyatakan demikian dengan persetujuan kedua Pihak, atau (2) bijih yang mengandung satu atau lebih bahan yang disebutkan terdahulu dalam kadar tertentu yang akan disetujui kedua Pihak dari waktu ke waktu;

(r). "bahan nuklir khusus" adalah (1) plutonium, uranium 233, atau uranium yang diperkaya dalam isotop 235, atau (2) setiap bahan lain yang dinyatakan demikian dengan persetujuan kedua Pihak.

Pasal 3.

Alih keterangan

1. Keterangan tentang penggunaan tenaga nuklir untuk maksud-maksud damai dapat dialihkan. Bidang-bidang yang dapat dicakup, tetapi tidak terbatas padanya, meliputi hal-hal sebagai berikut :

(a). pengembangan, disain, konstruksi, operasi, pemeliharaan dan penggunaan reaktor serta eksperimen reaktor;

(b). penggunaan bahan dalam riset fisika dan biologi, kedokteran, pertanian dan industri;

(c). studi daur bahan bakar tentang cara-cara memenuhi kebutuhan nuklir untuk maksud damai seluruh dunia di masa yang akan datang, termasuk pendekatan multilateral untuk menjamin penyediaan bahan bakar nuklir dan teknik yang memadai untuk pengelolaan limbah nuklir;

(d). pengamanan dan sekuriti fisik dari bahan dan peralatan;

(e). pertimbangan mengenai kesehatan, keselamatan dan lingkungan hidup yang berhubungan dengan hal-hal tersebut di atas;

(f). penilaian terhadap peranan yang dapat dilakukan oleh tenaga nuklir dalam rencana energi nasional; dan

(g). eksplorasi dan pengembangan sumber uranium.

2. Persetujuan ini tidak mensyaratkan pengalihan setiap keterangan yang kedua Pihak tidak diperkenankan untuk mengalihkannya.

3. Data terbatas tidak boleh dialihkan berdasarkan Persetujuan ini.

4. Teknologi nuklir sensitif tidak boleh dialihkan berdasarkan Persetujuan ini kecuali bila diatur dengan suatu amandemen pada Persetujuan ini.

Pasal 4.

Penyerahan Bahan, Peralatan dan Komponen.

1. Bahan, peralatan dan komponen dapat diserahkan untuk penggunaan yang sesuai dengan Persetujuan ini. Walaupun demikian fasilitas nuklir sensitif dan komponen kritis utama tidak akan diserahkan berdasarkan Persetujuan ini, kecuali bila diatur dengan suatu amandemen pada Persetujuan ini.

2. Uranium diperkaya rendah dapat diserahkan untuk digunakan sebagai bahan bakar dalam eksperimen reaktor dan dalam reaktor, untuk konversi atau fabrikasi atau untuk tujuan lain semacam itu yang dapat disetujui oleh kedua Pihak.

3. Bahan nuklir khusus selain uranium diperkaya rendah dan bahan yang dimaksud dalam ayat 6, apabila disetujui kedua Pihak, dapat diserahkan untuk penggunaan tertentu yang secara teknis dan ekonomis dibenarkan atau yang dapat dibenarkan untuk pengembangan dan peragaan daur bahan bakar reaktor untuk terjaminnya energi dan tujuan pencegahan penyebaran.

4. Jumlah bahan nuklir khusus yang diserahkan berdasarkan Persetujuan ini, pada setiap saat tidak boleh melebihi jumlah yang disetujui kedua Pihak, yang dibutuhkan untuk maksud-maksud sebagai berikut :penggunaan dalam eksperimen reaktor atau pengisian bahan bakar reaktor, pelaksanaan yang efisien dan kontinu dari eksperimen reaktor atau pengoperasian reaktor semacam itu, dan pencapaian tujuan lain yang dapat disetujui oleh kedua Pihak. Jika di Indonesia terdapat uranium diperkaya tinggi melebihi

jumlah yang diperlukan untuk tujuan ini, maka Amerika Serikat akan mempunyai hak untuk meminta kembali setiap uranium diperkaya tinggi yang diserahkan berdasarkan Persetujuan ini (termasuk uranium diperkaya tinggi yang telah diiradiasi) yang menyebabkan kelebihan ini. Jika hak ini dilaksanakan, kedua Pihak akan membuat pengaturan komersial yang layak yang tidak akan terikat pada sesuatu persetujuan lebih lanjut antara kedua Pihak seperti yang telah ditentukan dalam Pasal 5 dan 6.

5. Setiap uranium diperkaya tinggi yang diserahkan sesuai dengan Persetujuan ini tidak boleh ada pada suatu tingkat perkayaan dalam isotop 235 yang melebihi tingkat yang disetujui kedua Pihak yang perlu untuk tujuan yang tercantum dalam ayat 4.

6. Bahan nuklir khusus dalam jumlah kecil dapat diserahkan untuk digunakan sebagai contoh, standar, detektor, sasaran dan untuk tujuan lain yang disetujui kedua Pihak. Penyerahan sesuai dengan ayat ini tidak akan terikat pada pembatasan jumlah yang tersebut dalam ayat 4.

7. Amerika Serikat akan mengambil langkah-langkah yang perlu dan yang layak untuk menjamin kepastian tersedianya bahan bakar nuklir untuk Indonesia, termasuk ekspor bahan nuklir menurut jadwal dan kemampuan untuk melaksanakan kewajiban ini selama masa berlakunya Persetujuan ini.

Pasal 5

Penyimpanan dan Penyerahan kepada pihak ketiga

1. Masing-masing Pihak menjamin bahwa plutonium atau uranium 233 (kecuali yang terkandung dalam bahan bakar yang diiradiasi) atau uranium diperkaya tinggi yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini, atau yang digunakan dalam, atau yang dihasilkan dari pemakaian setiap bahan atau peralatan yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini harus disimpan hanya dalam suatu fasilitas yang telah disetujui kedua Pihak terlebih dahulu.

2. Masing-masing Pihak menjamin bahwa setiap bahan, peralatan dan komponen yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini, dan setiap bahan nuklir khusus yang dihasilkan dari pemakaian setiap bahan tersebut atau peralatan tidak akan diserahkan kepada subyek hukum yang tidak berwenang atau berada di luar wilayah jurisdiksi-

nya kecuali apabila disetujui kedua Pihak.

Pasal 6

Pemrosesan Ulang dan Pengayaan

1. Masing-masing Pihak menjamin bahwa bahan yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini dan bahan yang digunakan dalam, atau yang dihasilkan dari pemakaian setiap bahan atau peralatan yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini tidak boleh diproses ulang kecuali apabila disetujui kedua Pihak.

2. Masing-masing Pihak menjamin bahwa setiap plutonium, uranium 233, uranium diperkaya tinggi atau bahan sumber yang diradiasi atau bahan nuklir khusus yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini, atau yang digunakan dalam, atau yang dihasilkan melalui pemakaian setiap bahan atau peralatan yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini tidak boleh diubah bentuk atau isinya selain dengan iradiasi atau iradiasi lanjutan, kecuali apabila disetujui kedua Pihak.

3. Masing-masing Pihak menjamin bahwa uranium yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini dan uranium yang dipakai dalam setiap peralatan yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini tidak boleh diperkaya setelah penyerahan, kecuali apabila disetujui kedua Pihak.

Pasal 7

Sekuriti fisik

1. Masing-masing Pihak menjamin bahwa sekuriti fisik yang memadai akan dipertahankan terhadap setiap bahan dan peralatan yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini dan terhadap setiap bahan nuklir khusus yang digunakan dalam atau yang dihasilkan melalui pemakaian setiap bahan atau peralatan yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini.

2. Pihak-pihak menyetujui tingkat pelaksanaan sekuriti fisik yang tercantum dalam lampiran, yang dapat diubah dengan persetujuan bersama kedua Pihak. Kedua Pihak akan mempertahankan usaha-usaha sekuriti fisik yang memadai sesuai dengan tingkat-tingkat tersebut.
Usaha-usaha ini akan memberikan perlindungan yang sekurang-kurangnya setara dengan rekomendasi yang tercantum dalam dokumen IAEA INFCIRC/225/ Revision 1 tentang perlindungan fisik bagi bahan nuklir, atau dalam tiap revisi dari dokumen tersebut yang disetujui oleh kedua Pihak.

3. Peninjauan kembali dan konsultasi mengenai memadai atau tidaknya usaha-usaha sekuruti fisik yang dipertahankan sesuai dengan pasal ini dapat diadakan oleh kedua Pihak secara berkala dan bilamana salah satu Pihak berpendapat bahwa revisi itu diperlukan untuk mempertahankan sekuriti fisik yang memadai.

4. Masing-masing Pihak akan menunjuk badan atau instansi yang berwenang yang mempunyai tanggung jawab untuk menjamin dapat dipenuhinya tingkat sekuriti fisik secara memadai, dan yang mempunyai tanggung jawab untuk mengkoordinasikan tanggapan dan operasi penguasaan kembali dalam hal penggunaan atau penanganan secara tidak sah bahan yang diatur dalam Pasal ini. Masing-masing Pihak juga akan menunjuk tempat kontak dalam badan nasionalnya untuk bekerja sama dalam hal pengangkutan ke luar negeri dan hal-hal lain yang menjadi kepentingan bersama.

5. Ketentuan Pasal ini akan dilaksanakan sedemikian rupa sehingga menghindari hambatan, penundaan atau campur tangan yang tidak semestinya dalam kegiatan nuklir kedua Pihak dan agar sejalan dengan praktek pengelolaan yang disyaratkan bagi pelaksanaan program nuklir mereka secara ekonomis dan aman.

Pasal 8

Penggunaannya tidak untuk peledak atau militer

Masing-masing Pihak menjamin bahwa bahan, peralatan atau komponen yang diserahkan ke dan berada di dalam jurisdiksinya berdasarkan Persetujuan ini dan bahan yang digunakan dalam, atau dihasilkan melalui pemakaian bahan, peralatan atau komponen yang diserahkan ke dan berada didalam jurisdiksinya berdasarkan Persetujuan ini tidak akan digunakan untuk setiap

alat peledak nuklir, untuk riset atau pengembangan setiap alat peledak nuklir, atau untuk tujuan militer.

Pasal 9

Pengamanan

1. Kerjasama berdasarkan Persetujuan ini memerlukan adanya pelaksanaan pengamanan IAEA terhadap semua kegiatan nuklir dalam wilayah hukum Indonesia, di bawah jurisdiksinya atau yang dilaksanakan dalam pengawasannya di manapun juga. Pelaksanaan dari suatu persetujuan pengamanan sesuai dengan Pasal III (4) dari NPT harus dianggap memenuhi persyaratan yang tercantum dalam kalimat di atas.

2. Bahan yang diserahkan kepada Indonesia berdasarkan Persetujuan ini dan setiap bahan sumber tenaga atom ataù bahan nuklir khusus yang digunakan dalam atau dihasilkan melalui pemakaian bahan, peralatan atau komponen yang diserahkan harus dikenakan pengamanan sesuai dengan Persetujuan antara Indonesia dan IAEA untuk pelaksanaan pengamanan yang berkaitan dengan NPT.

3. Apabila Amerika Serikat atau Indonesia menyadari adanya keadaan yang menunjukkan bahwa IAEA karena suatu alasan tidak atau tidak akan melaksanakan pengamanan sesuai dengan persetujuan yang ditentukan dalam ayat 2, salah satu Pihak akan memberitahukan kepada Pihak yang lain dan untuk menjamin kontinuitas pengamanan yang efektif, kedua Pihak harus segera mengadakan pengaturan yang sesuai dengan prinsip dan prosedur pengamanan IAEA dan dengan lingkup yang disyaratkan oleh ayat tersebut dan yang memberikan jaminan yang setaraf dengan jaminan yang dimaksudkan oleh sistem yang digantikannya.

4. Masing-masing Pihak menjamin akan melakukan usaha-usaha yang diperlukan untuk memelihara dan mempermudah pelaksanaan pengamanan yang ditentukan dalam Pasal ini.

5. Masing-masing Pihak akan mengadakan dan memelihara suatu sistem pembukuan dan pengawasan atas semua bahan yang diserahkan berdasarkan Persetujuan ini dan setiap bahan yang digunakan dalam atau dihasilkan melalui pemakaian bahan, peralatan atau komponen yang diserahkan, yang prosedurnya harus sebanding dengan prosedur yang tercantum dalam dokumen IAEA INFCIRC/153 (corrected) atau dalam setiap perobahan dari

dokumen tersebut yang disetujui oleh kedua Pihak.

6. Atas permintaan salah satu Pihak, Pihak yang lain akan melaporkan atau mengizinkan IAEA untuk melaporkan kepada Pihak yang meminta tentang keadaan dari semua bahan yang diatur oleh Persetujuan ini.

7. Ketentuan-ketentuan dari Pasal ini akan dilaksanakan sedemikian rupa untuk menghindarkan hambatan, penundaan atau campur tangan yang tidak semestinya dalam kegiatan nuklir kedua Pihak dan agar sejalan dengan praktek pengelolaan yang disyaratkan bagi pelaksanaan program nuklir mereka secara ekonomis dan aman.

Pasal 10

Pengawasan ganda oleh penyedia

Jika suatu persetujuan antara salah satu pihak dengan negara lain atau dengan suatu kelompok negara, memberikan kepada negara atau kelompok negara tersebut hak yang sama seperti yang tercantum dalam pasal 5, 6 dan 7 berkenaan dengan bahan, alat dan komponen yang tercakup dalam persetujuan ini, maka atas permintaan salah satu pihak, kedua Pihak dapat menyetujui bahwa pelaksanaan hak-hak tersebut akan dilakukan oleh negara lain atau kelompok negara lain yang dimaksud.

Pasal 11

Penghentian Kerjasama

1. Jika salah satu pihak sewaktu-waktu sesudah berlakunya Persetujuan ini:

a. tidak mematuhi ketentuan dalam pasal 5, 6, 7, 8, atau 9, atau

b. mengakhiri, membatalkan atau melanggar suatu persetujuan pengamanan dengan IAEA, maka pihak yang lain akan memperoleh hak untuk menghentikan kerjasama lebih lanjut berdasarkan Persetujuan ini dan berhak untuk meminta kembali semua bahan, alat dan komponen yang telah diserahkan berdasarkan persetujuan ini dan tiap bahan nuklir khusus yang dihasilkan karena pemakaiannya.

2. Jika Indonesia sewaktu-waktu sesudah berlakunya persetujuan ini meledakkan suatu alat peledak nuklir, Amerika Serikat akan memperoleh hak yang sama seperti tercantum dalam ayat 1.

3. Jika salah satu pihak melaksanakan haknya berdasarkan pasal ini untuk meminta kembali setiap bahan, alat atau komponen, maka setelah pemindahan dari wilayah pihak yang lain, ia harus membayar kembali kepada pihak yang lain harga pasaran yang layak dari bahan, alat atau komponen tersebut. Apabila hak ini dilaksanakan, kedua Pihak akan membuat pengaturan yang layak yang mungkin diperlukan, yang tidak akan terikat pada sesuatu persetujuan lebih lanjut antara kedua Pihak seperti yang telah ditentukan dalam pasal 5 dan 6.

Pasal 12.

Berakhirnya Persetujuan terdahulu.

1. Persetujuan Kerjasama antara Pemerintah Amerika Serikat dan Pemerintah Republik Indonesia tentang Penggunaan Tenaga Atom Untuk Maksud-maksud Damai, yang ditanda tangani 8 Juni 1960, sebagaimana telah diamendir, akan berakhir pada tanggal Persetujuan ini mulai berlaku.

2. Kerjasama yang telah dimulai berdasarkan Persetujuan yang terdahulu akan terus berlangsung sesuai dengan ketentuan-ketentuan Persetujuan ini. Ketentuan Persetujuan ini akan berlaku untuk bahan dan alat yang tercantum dalam Persetujuan terdahulu.

Pasal 13.

Konsultasi dan Perlindungan Lingkungan Hidup.

1. Kedua Pihak berusaha untuk berkonsultasi atas permintaan salah satu pihak tentang penafsiran atau pelaksanaan Persetujuan ini dan pengembangan kerjasama lebih lanjut di bidang penggunaan tenaga nuklir untuk maksud-maksud damai. Apabila timbul perbedaan pendapat antara kedua Pihak tentang penafsiran atau pelaksanaan Persetujuan ini, kedua Pihak akan berkonsultasi dengan tujuan untuk mencari penyelesaian secara bersahabat.

2. Kedua Pihak akan berkonsultasi, berkenaan dengan kegiatan-kegiatan berdasarkan Persetujuan ini, untuk mengidentifikasi akibat yang menyangkut lingkungan hidup internasional yang timbul dari kegiatan-kegiatan tersebut dan akan bekerjasama dalam hal melindungi lingkungan hidup internasional dari kontaminasi radioaktif, kimia dan termal yang timbul dari ke

giatan penggunaan nuklir yang bersifat damai berdasarkan Persetujuan ini dan masalah-masalah kesehatan dan keselamatan yang berkaitan dengan itu.

Pasal 14

Mulai Berlakunya Persetujuan dan jangka waktu

1. Masing-masing Pihak harus memberikan kepada Pihak lain pemberitahuan tertulis tentang telah dipenuhinya persyaratan perundang-undangan bagi berlakunya Persetujuan ini.
Persetujuan ini mulai berlaku pada tanggal pemberitahuan yang terakhir dan akan tetap berlaku untuk jangka waktu sepuluh (10) tahun. Jangka waktu ini dapat diperpanjang dengan suatu jangka waktu menurut kesepakatan kedua Pihak sesuai dengan peraturan perundang-undangan masing-masing.

2. Walaupun terjadi suatu penangguhan, pemutusan atau pengakhiran Persetujuan atau setiap kerjasama yang timbul dari padanya karena suatu alasan, maka pasal-pasal 5, 6, 7, 8, 9 dan 11 akan tetap berlaku selama setiap bahan, alat atau komponen yang diatur oleh pasal-pasal tersebut tetap berada di wilayah Pihak yang bersangkutan atau berada di dalam jurisdiksi atau pengawasannya di manapun, atau sampai suatu waktu yang disepakati kedua Pihak bahwa bahan, alat atau komponen tersebut tidak lagi berguna untuk suatu kegiatan nuklir dilihat dari segi pengamanan.

SEBAGAI BUKTI, persetujuan ini telah ditandatangani oleh wakil-wakil berkuasa penuh dari kedua Pemerintah.

DIBUAT di Washington, D. C. pada tanggal 30 Juni 1980 dalam rangkap dua, dalam bahasa Indonesia dan bahasa Inggris, yang kedua-duanya mempunyai kekuatan yang sama.

UNTUK PEMERINTAH AMERIKA SERIKAT,

UNTUK PEMERINTAH REPUBLIK INDONESIA,

LAMPIRAN

Sesuai dengan pasal 7 ayat 2, tingkat yang disetujui bagi sekuriti fisik yang dijamin oleh instansi yang berwenang untuk pemakaian, penyimpanan dan pengangkutan dari bahan-bahan yang tercantum dalam tabel terlampir. akan meliputi sekurang-kurangnya ciri-ciri perlindungan sebagai berikut:

Kategori III.

Pemakaian dan penyimpanan di dalam suatu daerah di mana akses diawasi.

Pengangkutan dengan perlakuan-perlakuan khusus termasuk pengaturan pengaturan yang terlebih dahulu dilakukan antara pengirim, penerima dan pengangkut, dan persetujuan yang terlebih dahulu dari badan-badan yang tunduk pada jurisdiksi dan peraturan negara penyedia dan negara penerima, berturut-turut dalam hal pengangkutan internasional dengan menetapkan waktu, tempat dan prosedur tentang pengalihan tanggung jawab pengangkutan.

Kategori II.

Pemakaian dan penyimpanan didalam daerah yang dilindungi di mana akses diawasi, yaitu suatu daerah dalam pengamatan terus menerus oleh penjaga-penjaga atau alat elektronik, dikelilingi dengan penghalang-penghalang fisik dengan jumlah jalan masuk yang terbatas dengan pengawasan yang memadai, atau suatu daerah dengan tingkat perlindungan fisik yang setara.

Pengangkutan dengan perlakuan-perlakuan khusus termasuk pengaturan-pengaturan yang terlebih dahulu dilakukan antara pengirim, penerima dan pengangkut, dan persetujuan yang terlebih dahulu dari badan-badan yang tunduk pada jurisdiksi dan peraturan negara penyedia dan negara penerima, berturut-turut dalam hal pengangkutan internasional, dengan menetapkan waktu, tempat dan prosedur tentang pengalihan tanggung jawab pengangkutan.

Kategori I.

Bahan dari kategori ini harus dilindungi dengan sistem yang mempunyai keandalan tinggi terhadap penggunaan yang tidak sah sebagai berikut:

Penggunaan dan penyimpanan di dalam daerah dengan perlindungan yang ketat yaitu daerah perlindungan seperti ditetapkan untuk kategori II, yang aksesnya terbatas pada orang-orang yang telah dipastikan kete-

percayaannya dan yang diamati oleh penjaga yang selalu berhubungan erat dengan satuan tanggap keamanan yang memadai.

Tindakan-tindakan khusus dalam hubungan ini harus ditujukan pada pendeteksian dan pencegahan terjadinya suatu serangan, masuknya orang secara tidak sah atau pemindahan bahan secara tidak sah.

Di-samping pengangkutan dengan perlakuan khusus seperti tersebut di atas untuk pengangkutan bahan kategori II dan III perlu pengamatan secara terus menerus oleh satuan-satuan pengawal dengan kondisi yang dapat menjamin hubungan yang erat dengan satuan tanggap keamanan yang mamadai.

TABEL : KATEGORI BAHAN BAKAR NUKLIR

Bahan	Bentuk	Kategori I	Kategori II	Kategori III
1. Plutonium[a,f,]	Tidak diiradiasi [b]	2 kg atau lebih	Kurang dari 2 kg tetapi lebih 500 gram	500 gram atau kurang [c]
2. Uranium - 235[d]	Tidak diiradiasi [b]			
	- Uranium diperkaya dengan 20% ^{235}U atau lebih	5 kg atau lebih	Kurang dari 5 kg tetapi lebih dari 1 kg.	1 kg atau kurang [c]
	- Uranium diperkaya dengan 10% ^{235}U tetapi kurang dari 20%	-	10 kg atau lebih	Kurang dari 10 kg[c]
	- Uranium diperkaya dengan pengayaan di atas kadar ^{235}U yang terdapat di alam, tetapi kurang dari 10% ^{235}U.	-	-	10 kg atau lebih
3. Uranium - 233.	Tidak diiradiasi	2 kg atau lebih	Kurang dari 2 kg tetapi lebih dari 500 gram	500 gram atau kurang [c]

a. Semua plutonium kecuali plutonium dengan kadar isotop lebih dari 80% dalam plutonium 238.

b. Bahan tidak diiradiasi dalam reaktor atau bahan diiradiasi dalam reaktor tetapi dengan tingkat radiasi sama dengan atau kurang dari 100 rad/jam pada jarak 1 meter dari bahan tanpa penahan radiasi.

c. Kurang dari kuantitas yang berarti secara radiologi harus dikecualikan.

d. Uranium alam, uranium susut kadar dan thorium serta jumlah uranium yang diperkaya kurang dari 10% yang tidak masuk dalam Kategori III harus dilindungi sesuai dengan praktek manajemen yang baik.

e. Bahan bakar yang telah diiradiasi harus dilindungi sebagai Kategori I, II atau III bergantung pada Kategori dari bahan bakar sebelum dipakai.

Akan tetapi bahan bakar yang kalau dilihat dari kandungan bahan dapat-belahnya sebelum diiradiasi termasuk sebagai Kategori I atau II, Kategorinya hanya diturunkan satu tingkat, bila tingkat radiasi bahan bakar melebihi 100 rad/jam pada jarak 1 meter tanpa penahan radiasi.

f. Instansi Yang Berwenang suatu negara harus menentukan bila terdapat ancaman yang tepercaya terhadap penyebaran plutonium dengan itikad buruk.

Kemudian Negara harus melaksanakan persyaratan perlindungan fisik untuk bahan bakar nuklir Kategori I, II atau III, sesuai yang diperlukan, dan tanpa memperhatikan jumlah plutonium yang diperinci untuk tiap Kategori, terhadap isotop plutonium dalam jumlah dan bentuk yang ditentukan oleh Negara berada dalam ruang lingkup ancaman terhadap penyebaran tersebut.

KESEPAKATAN MENGENAI BEBERAPA HAL

Selama berlangsungnya perundingan mengenai Persetujuan Kerjasama antara Pemerintah Amerika Serikat dan Pemerintah Republik Indonesia tentang Penggunaan Tenaga Nuklir Untuk Maksud-maksud Damai (untuk selanjutnya disebut "Persetujuan") yang ditandatangani pada hari ini, telah tercapai pengertian bersama, yang merupakan bagian yang tidak terpisahkan daripada Persetujuan, sebagai berikut :

Cakupan Persetujuan

Bahan, peralatan dan komponen-komponen yang diserahkan dari wilayah Pihak yang satu ke wilayah Pihak yang lain untuk tujuan damai, baik secara langsung atau melalui suatu negara ketiga, hanya akan dianggap telah diserahkan berdasarkan Persetujuan ini setelah ada konfirmasi dari instansi pemerintah yang berwenang dari Pihak penerima kepada instansi pemerintah yang berwenang dari Pihak penyedia, bahwa bahan, peralatan dan komponen tersebut tunduk pada Persetujuan ini.

Untuk pelaksanaan hak-hak yang diperinci dalam pasal-pasal 5, 6, dan 7 berkenaan dengan bahan nuklir khusus yang dihasilkan melalui penggunaan bahan yang diserahkan berdasarkan Persetujuan ini dan tidak dipergunakan dalam atau dihasilkan melalui penggunaan peralatan yang diserahkan berdasarkan Persetujuan, dalam praktek hak-hak tersebut akan diterapkan pada bagian bahan nuklir khusus yang dihasilkan yang merupakan perbandingan dari bahan yang diserahkan yang digunakan dalam produksi bahan nuklir khusus tersebut terhadap jumlah keseluruhan bahan yang dipergunakan, dan demikian juga untuk generasi selanjutnya.

Pengamanan

Jika salah satu Pihak menyadari adanya keadaan seperti tersebut dalam pasal 9 ayat 3, setelah berkonsultasi dengan Indonesia, Amerika Serikat akan diizinkan untuk melakukan kegiatan-kegiatan yang tersebut di bawah ini kecuali jika Amerika Serikat menyetujui bahwa kebutuhan untuk melakukan kegiatan-kegiatan tersebut telah dipenuhi dengan diterapkannya pengamanan IAEA sesuai dengan pengaturan tersebut dalam pasal 9 ayat 3 :

(1). menilai kembali secepatnya disain dari peralatan yang diserahkan berdasarkan Persetujuan, atau disain dari setiap fasilitas yang akan menggunakan, memfabrikasi, memproses atau menyimpan setiap bahan yang diserahkan atau setiap bahan nuklir khusus

yang digunakan di dalam atau dihasilkan melalui penggunaan bahan atau peralatan tersebut.

(2). mensyaratkan perawatan dan pengadaan catatan dan laporan yang bersangkutan dengan maksud membantu menjamin adanya pencatatan bahan yang diserahkan berdasarkan Persetujuan dan setiap bahan sumber tenaga atom atau bahan nuklir khusus yang digunakan didalam atau dihasilkan melalui penggunaan bahan peralatan atau komponen yang dikirimkan tersebut, dan

(3). menunjuk petugas-petugas, setelah berkonsultasi dengan Indonesia, yang akan mempunyai akses ke semua tempat dan data yang diperlukan untuk penghitungan bahan termaksud dalam ayat (2), untuk memeriksa setiap peralatan atau fasilitas yang tersebut dalam ayat (1), dan untuk memasang alat-alat dan membuat pengukuran tersendiri yang diperlukan untuk menghitung bahan tersebut. Petugas-petugas tersebut akan disertai oleh petugas-petugas yang ditunjuk oleh Indonesia.

Berkenaan dengan pasal 9, telah ditetapkan bahwa keterangan disain yang berkaitan dengan pengamanan untuk peralatan baru atau fasilitas di mana pengamanan diperlukan berdasarkan Persetujuan, akan diserahkan kepada IAEA dalam waktu yang tepat atas permintaannya.

Pengaturan Peralihan

Berkenaan dengan pasal 7 ayat 1 dan 2 walaupun sebagian besar fasilitas di Amerika Serikat mengadakan perlindungan fisik yang sebanding dengan yang ditetapkan untuk bahan-bahan yang diklasifikasikan sebagai kategori II dan III di dalam tabel terlampir pada Lampiran, peraturan di Amerika Serikat yang berkenaan dengan perlindungan fisik dari bahan-bahan tersebut tidak mensyaratkan pelaksanaannya hingga Juli 1980.
Jika calon penerima bahan dari kategori II dan III yang diserahkan sesuai dengan Persetujuan tidak melakukan perlindungan fisik yang sekurang-kurangnya sebanding dengan yang tercantum dalam INFCIRC/225/Revision 1, Amerika Serikat akan memberitahukan hal tersebut kepada Indonesia sebelum pengapalan dari bahan tersebut dan akan mencari pengaturan sementara yang memuaskan Kedua Pihak.

Berkenaan dengan pasal 12 ayat 2 dengan maksud untuk memudahkan penerapan dari ketentuan-ketentuan Persetujuan, kedua Pihak akan menyusun suatu daftar dari bahan dan peralatan yang dimaksud.

UNTUK PEMERINTAH
AMERIKA SERIKAT.

UNTUK PEMERINTAH
REPUBLIK INDONESIA.

MULTILATERAL

Containers

Amendments to annex I of the convention of December 2, 1972 adopted by the Maritime Safety Committee at London April 2, 1981;
Entered into force December 1, 1981.

1981 AMENDMENTS TO ANNEX I OF THE INTERNATIONAL CONVENTION FOR SAFE CONTAINERS (CSC)[1]

CHAPTER I

Regulation 2

Amend the heading of Regulation 2 to read:

"Maintenance and Examination".

In paragraph 3, line 4, delete the word "maintenance" and insert therefor "examination".

Add at the end of paragraph 4 the following text:

"As a transitional provision, any requirements for marking on containers the date of the first examination of new containers or the re-examination of new containers covered in Regulation 10 and of existing containers shall be waived until 1 January 1987. However, an Administration may make more stringent requirements for the containers of its own (national) owners."

Add at the end of paragraph 5 the following text:

"However, in the event that the owner is domiciled or has his head office in a country the government of which has not yet made arrangements for prescribing or approving an examination scheme and until such time as the arrangements have been made the owner may use the procedure prescribed or approved by the Administration of a Contracting Party which is prepared to act as 'the Contracting Party concerned'. The owner shall comply with the conditions for the use of such procedures set by the Administration in question."

CHAPTER IV

Amend the heading to read:

"REGULATIONS FOR APPROVAL OF EXISTING CONTAINERS AND NEW CONTAINERS NOT APPROVED AT THE TIME OF MANUFACTURE".

[1] TIAS 9037; 29 UST 3717.

Regulation 9

Add to the end of paragraph 1 the following:

"The examination of the container concerned and the affixing of the Safety Approval Plate shall be accomplished not later than 1 January 1985."

Insert a new Regulation 10 reading:

"Regulation 10

Approval of New Containers Not Approved at Time of Manufacture

If, on or before 6 September 1982, the owner of a new container which was not approved at the time of manufacture presents the following information to an Administration:

(a) date and place of manufacture;

(b) manufacturer's identification number of the container if available;

(c) maximum operating gross weight capability;

(d) evidence to the satisfaction of the Administration that the container was manufactured to a design type which had been tested and found to comply with the technical conditions set out in Annex II;

(e) allowable stacking weight for 1.8 g (kilogrammes and lbs); and

(f) such other data as required for the Safety Approval Plate;

the Administration, after investigation, may approve the container, notwithstanding the provisions of Chapter II. Where approval is granted, such approval shall be notified to the owner in writing, and this notification shall entitle the owner to affix the Safety Approval Plate after an examination of the container concerned has been carried out in accordance with Regulation 2. The examination of the container concerned and the affixing of the Safety Approval Plate shall be accomplished not later than 1 January 1985."

AMENDEMENTS DE 1981 A L'ANNEXE I DE LA CONVENTION INTERNATIONALE SUR LA SECURITE DES CONTENEURS (CSC)

CHAPITRE PREMIER

Règle 2

Modifier le titre de la règle 2 comme suit : "Entretien et examen".

A la dernière ligne du paragraphe 3, remplacer "d'entretien" par "d'examen".

A la fin du paragraphe 4, ajouter le texte qui suit :

"A titre de mesure transitoire, il est sursis jusqu'au 1er janvier 1987 à l'application de toutes dispositions en vertu desquelles on doit marquer sur les conteneurs la date du premier examen des conteneurs neufs ou du réexamen des conteneurs neufs visés par la règle 10 et des conteneurs existants. Toutefois, une Administration peut imposer des dispositions plus rigoureuses aux conteneurs appartenant à des propriétaires qui relèvent de la juridiction du pays."

A la fin du paragraphe 5, ajouter le texte qui suit :

"Toutefois, si le propriétaire a son domicile ou son siège principal dans un pays dont le gouvernement n'a pas encore pris de dispositions en vue de prescrire ou d'approuver un système d'examen, il peut, jusqu'à ce que de telles dispositions aient été prises, utiliser la procédure prescrite ou approuvée par l'Administration d'une Partie contractante qui est disposée à assumer le rôle de 'la Partie contractante intéressée'. Le propriétaire doit satisfaire aux conditions régissant l'utilisation des procédures de cette nature, qui ont été fixées par l'Administration en question."

CHAPITRE IV

Modifier le titre de ce chapitre comme suit :

"REGLES RELATIVES A L'AGREMENT DES CONTENEURS EXISTANTS ET DES CONTENEURS NEUFS N'AYANT PAS ETE AGREES AU MOMENT DE LA CONSTRUCTION"

Règle 9

A la fin du paragraphe 1, ajouter le texte qui suit :

"L'examen du conteneur en cause et l'apposition de la plaque d'agrément aux fins de la sécurité doivent être effectués le 1er janvier 1985 au plus tard."

Insérer une nouvelle règle 10 ainsi libellée :

"Règle 10

Agrément des conteneurs neufs n'ayant pas été agréés au moment de la construction

Si, le 6 septembre 1982 ou avant cette date, le propriétaire d'un conteneur neuf qui n'a pas été agréé au moment de la construction présente les renseignements suivants à une Administration :

a) date et lieu de construction;

b) numéro d'identification attribué par le constructeur au conteneur, si ce numéro existe;

c) masse brute maximale de service;

d) preuve jugée satisfaisante par l'Administration que le conteneur a été fabriqué conformément à un type de construction qui a subi des essais dont il ressort qu'il satisfait aux conditions techniques énoncées à l'Annexe II;

e) charge admissible de gerbage pour 1,8 g (kilogrammes et livres anglaises); et

f) autres indications requises sur la plaque d'agrément aux fins de la sécurité,

l'Administration, après inspection, peut agréer le conteneur, nonobstant les dispositions du chapitre II. Lorsque l'agrément est octroyé, elle le notifie par écrit au propriétaire et cette notification autorise celui-ci à apposer la plaque d'agrément aux fins de la sécurité, après qu'un examen du conteneur en cause a été effectué conformément à la règle 2. L'examen du conteneur en cause et l'apposition de la plaque d'agrément aux fins de la sécurité doivent être effectués le 1er janvier 1985 au plus tard."

ПОПРАВКИ 1981 ГОДА К ПРИЛОЖЕНИЮ I
МЕЖДУНАРОДНОЙ КОНВЕНЦИИ ПО БЕЗОПАСНЫМ
КОНТЕЙНЕРАМ (КБК)

ГЛАВА I

Правило 2

Изменить заголовок правила 2 следующим образом: "Содержание и осмотр".

В пункте 3, строки 6-7, исключить слова "содержания контейнеров в безопасном состоянии." и вместо них включить слово "осмотра.".

Добавить в конце пункта 4 следующий текст:

"В качестве переходной меры любые требования об указании на контейнерах даты первого осмотра новых контейнеров или повторного осмотра новых контейнеров, указанных в правиле 10, и существующих контейнеров не применяются до 1 января 1987 года. Однако Администрация может применять более строгие требования к контейнерам своих (национальных) владельцев".

Добавить в конце пункта 5 следующий текст:

"Однако в случае, когда владелец постоянно проживает или имеет свою главную контору в стране, правительство которой еще не приняло мер к предписанию или одобрению процедуры осмотра, и до того времени, когда будут приняты такие меры, владелец может использовать процедуру, предписанную или одобренную Администрацией Договаривающейся Стороны, которая готова выступить в качестве "заинтересованной Договаривающейся Стороны". Владелец должен соблюдать условия использования такой процедуры, установленные данной Администрацией".

ГЛАВА IV

Изменить заголовок следующим образом:

"ПРАВИЛА ДОПУЩЕНИЯ СУЩЕСТВУЮЩИХ КОНТЕЙНЕРОВ И НОВЫХ КОНТЕЙНЕРОВ, НЕ ДОПУЩЕННЫХ ПРИ ИЗГОТОВЛЕНИИ".

Правило 9

Добавить в конце пункта 1 следующее:

"Осмотр данного контейнера и прикрепление таблички о допущении по условиям безопасности должны быть выполнены не позднее 1 января 1985 года".

Включить новое правило 10 следующего содержания:

"Правило 10

Допущение новых контейнеров, не допущенных при изготовлении

Если 6 сентября 1982 года или до этой даты владелец нового контейнера, не допущенного при изготовлении, представляет Администрации следующую информацию:

a) дата и место изготовления;

b) присвоенный заводом-изготовителем идентификационный номер контейнера, при наличии такого номера;

c) максимальный эксплуатационный вес брутто;

d) признанное Администрацией свидетельство о том, что контейнер изготовлен в соответствии с типом конструкции, который прошел испытания и был признан удовлетворяющим техническим условиям, приведенным в Приложении II;

e) допустимый вес на штабелирование при 1,8 g (килограммы и фунты); и

f) прочие данные, необходимые для таблички о допущении по условиям безопасности,

то Администрация после проверки может допустить контейнер, несмотря на положения главы II. В случае, когда допущение предоставлено, о таком допущении уведомляется в письменном виде владелец, и это уведомление дает владельцу право прикреплять табличку о допущении по условиям безопасности после осмотра данного контейнера в соответствии с правилом 2. Осмотр данного контейнера и прикрепление таблички о допущении по условиям безопасности должны быть выполнены не позднее 1 января 1985 года".

ENMIENDAS DE 1981 AL ANEXO I DEL CONVENIO INTERNACIONAL SOBRE LA SEGURIDAD DE LOS CONTENEDORES (CSC)

CAPITULO I

Regla 2

Enmiéndese el epígrafe de la Regla 2 de modo que diga: "Conservación y examen".

En la quinta línea del párrafo 3 sustitúyase la palabra "conservación" por "examen".

Al final del párrafo 4 añádase el siguiente texto:

"Como disposición transitoria, el cumplimiento de cualesquiera prescripciones relativas al marcado, en los contenedores, de la fecha del primer examen en el caso de contenedores nuevos o del reexamen de contenedores nuevos a los que se aplique la Regla 10, y de contenedores existentes, se aplazará hasta el 1 de enero de 1987. No obstante, la Administración podrá establecer prescripciones más rigurosas para los contenedores de sus propios propietarios (súbditos suyos)".

Al final del párrafo 5 añádase el siguiente texto:

"No obstante, el propietario, en el caso de que esté domiciliado o tenga su oficina principal en un país cuyo Gobierno no haya adoptado todavía disposiciones para prescribir o aprobar un procedimiento de examen, y hasta que se hayan adoptado esas disposiciones, podrá hacer uso del procedimiento prescrito o aprobado por la Administración de una Parte Contratante que esté dispuesta a actuar como "Parte Contratante interesada". El propietario satisfará las condiciones que para hacer uso de tales procedimientos estipule la Administración de que se trate".

CAPITULO IV

Enmiéndese el epígrafe de modo que diga:

"REGLAS PARA LA APROBACION DE LOS CONTENEDORES EXISTENTES Y DE LOS CONTENEDORES NUEVO NO APROBADOS AL TIEMPO DE SU FABRICACION".

Regla 9

Al final del párrafo 1 añádase lo siguiente:

"El examen de dicho contenedor y la colocación en éste de la placa de aprobación relativa a la seguridad se realizarán a más tardar el 1 de enero de 1985".

Intercálese una nueva Regla 10 que diga lo siguiente:

"Regla 10

Aprobación de los contenedores nuevos no aprobados al tiempo de su fabricación

Si el 6 de septiembre de 1982, o antes de esta fecha, el propietario de un contenedor nuevo que no hubiere sido aprobado al tiempo de su fabricación presenta los datos siguientes a una Administración:

a) fecha y lugar de fabricación;

b) número de identificación asignado por el fabricante al contenedor, cuando lo haya;

c) peso bruto máximo de utilización;

d) prueba, que la Administración estime satisfactoria, de que el contenedor ha sido fabricado con arreglo a un modelo que, sometido a prueba, ha resultado conforme a las condiciones técnicas establecidas en el Anexo II;

e) peso de apilamiento autorizado para 1,8 g (kilogramos y libras); y

f) cualesquiera otros datos necesarios para obtener la placa de aprobación relativa a la seguridad,

la Administración, previa investigación, podrá aprobar el contenedor no obstante lo dispuesto en el Capítulo II. Cuando se conceda la aprobación, ésta le será notificada al propietario por escrito y la notificación autorizará al propietario a colocar la placa de aprobación relativa a la seguridad, previo examen del contenedor efectuado de conformidad con la Regla 2. El examen del contenedor y la colocación en éste de la placa de aprobación relativa a la seguridad se realizarán a más tardar el 1 de enero de 1985".

Certified true copy of the English text of the Amendments to Annex I of the International Convention for Safe Containers (CSC), done at Geneva on 2 December 1972, which were adopted on 2 April 1981 by the Maritime Safety Committee and Contracting Parties present and voting in accordance with Article X, paragraph 2 of the Convention, and the original of which is deposited with the Secretary-General of the Inter-Governmental Maritime Consultative Organization.

Copie certifiée conforme du texte français des amendements à l'Annexe I de la Convention internationale sur la sécurité des contenseurs (CSC), faite à Genève le 2 décembre 1972, qui ont été adoptés le 2 avril 1981 par le Comité de la sécurité maritime et les Parties contractantes présentes et votantes conformément aux dispositions du paragraphe 2 de l'article X de la Convention et dont l'original est déposé auprès du Secrétaire général de l'Organisation intergouvernementale consultative de la navigation maritime.

Заверенная подлинная копия русского текста поправок к Приложению I Международной конвенции по безопасным контейнерам (КБК), совершенной в Женеве 2 декабря 1972 года, которые были приняты 2 апреля 1981 года Комитетом по безопасности на море и Договаривающимися Сторонами, присутствующими и голосующими, в соответствии с пунктом 2 статьи X Конвенции, и оригинал которых сдается на хранение Генеральному секретарю Межправительственной морской консультативной организации.

Copia auténtica certificada del texto español de las Enmiendas al Anexo I del Convenio Internacional sobre seguridad de los contenedores (CSC), fechado en Ginebra el 2 de diciembre de 1972, que fueron aprobadas el 2 de abril de 1981 por el Comité de Seguridad Marítima y por las Partes Contratantes presentes y votantes de conformidad con lo dispuesto en el párrafo 2 del Artículo X del Convenio, el original del cual ha sido depositado ante el Secretario General de la Organización Consultiva Marítima Intergubernamental.

For the Secretary-General of the Inter-Governmental Maritime Consultative Organization :

Pour le Secrétaire général de l'Organisation intergouvernementale consultative de la navigation maritime :

За Генерального секретаря Межправительственной морской консультативной организации:

Por el Secretario General de la Organización Consultiva Marítima Intergubernamental :

London,
Londres,
Лондон,
Londres,

1 X. 1981.

TIAS 10220

MAURITIUS

Agricultural Commodities

Agreement signed at Port Louis May 27, 1981;
Entered into force May 27, 1981.
With minutes of negotiation.

AGREEMENT BETWEEN THE GOVERNMENT OF THE
UNITED STATES OF AMERICA
AND THE GOVERNMENT OF MAURITIUS
FOR THE SALE OF AGRICULTURAL COMMODITIES
UNDER THE PUBLIC LAW 480, TITLE I [1]
PROGRAM.

The Government of the United States of America and the Government of Mauritius have agreed to the sales of Agricultural commodities specified below. This agreement shall consist of the preamble, parts I and III of the June 29, 1979 [2] agreement together with the following part II.

Part II - Particular Provisions:

Item I. Commodity Table:

-- -- -- COMMODITY	SUPPLY PERIOD (US FISCAL YEAR)	APPROXIMATE MAXIMUM QUANTITY (METRIC TONS)	MAXIMUM EXPORT MARKET VALUE (MILLIONS)
RICE	1981	3,500	DOLS 1.8
WHEAT FLOUR	1981	6,200	DOLS 1.7
TOTAL			DOLS 3.5

ITEM II. PAYMENT TERMS: Dollar Credit: (20 Years)

1. Initial payment - Five (5) percent.

2. Currency use payment - none

3. Number of installment payments - 19

4. Amount of each installment payment - Approximately equal annual installments

5. Due date of first installment payment - two (2) years from date of last delivery of commodities in each calendar year.

6. Interest rate - three (3) percent throughout the credit period.

[1] 68 Stat. 455; 7 U.S.C. § 1701 *et seq.*
[2] TIAS 9541; 30 UST 6081.

Item III. Usual Marketing Table:

COMMODITY	(IMPORT PERIOD)	USUAL MARKETING (METRIC TONS)
RICE	1981	60,000
WHEAT/WHEAT FLOUR (GRAIN EQUIVALENT BASIS)	1981	63,000

Item IV. Export Limitations:

A. The export limitation period shall be U.S. Fiscal year 1981 or any subsequent U.S. Fiscal year during which commodities financed under this agreement are being imported or utilized.

B. For the purpose of part I, article III (A) (4) of this agreement, the commodities which may not be exported are: For rice -- rice in the form of paddy, brown or milled; and for wheat/wheat flour -- wheat, wheat flour, rolled wheat, semolina, farina, bulgar (or the same products under different names).

Item V. Self-Help Measures:

A. The Government of the importing country agrees to undertake self-help measures to improve the production, storage, and distribution of Agricultural commodities. The following self-help measures shall be implemented to contribute directly to development progress in poor rural areas and enable the poor to participate actively in increasing agricultural production through small farm agriculture.

B. The Government of Mauritius agrees to undertake the following activities and in doing so to provide adequate financial, technical, and managerial resources for their implementation:

1. Continue to encourage agricultural diversification by:
   A. Expanding applied research in food crop production and intercropping;
   B. Promoting tea production;
   C. Providing credit and extension services for the diversification of crop production;
   D. Improving the marketing and storage systems for diversified crops; and
   E. Developing programs to make domestically produced agricultural products more attractive relative to imported foods.
2. Promote the use of the country's sea resource by:
   A. Improving storage and marketing facilities for fish; and
   B. Stimulating research to determine how to best use and conserve the country's sea resources.
3. Formulate both short and long-term development plans for the area of Rodrigues. Each plan should emphasize the participation by the residents with respect to decisions on the optimal utlization of agricultural land.

Item VI. Economic development purposes for which proceeds accruing to importing country are to be used:

A. The proceeds accruing to the importing country from the sale of commodities financed under this agreement will be used for financing the self-help measures set forth in the agreement and for the following economic development sectors: (Agriculture, and Rural Development) in a manner designed to increase the access of the poor in the recipient country to an adequate, nutritious, and stable food supply.

B. In the use of proceeds for these purposes emphasis will be placed on directly improving the lives of the poorest of the recipient country's people and their capacity to participate in the development of their country, particularly on the island of Rodrigues and other lower income areas of the country.

In witness whereof, the respective representatives, duly authorized for the purpose, have signed the present agreement. Done at Port Louis in duplicate this 27th day of May, 1981.

FOR THE GOVERNMENT
OF MAURITIUS

BY: Veerasamy RINGADOO

TITLE: Minister of Finance

SIGNATURE: _____

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

BY: Robert Charles Frost GORDON

TITLE: American Ambassador

SIGNATURE: _____

ATTACHMENT D

MINUTES OF THE NEGOTIATING MEETING
BETWEEN THE PARTIES TO THE PROPOSED
PL 480 TITLE I FY 1981 AGRICULTURAL COMMODITY
SALES AGREEMENT

Date: 8 April 1981, 1545 hours

Place: Ministry of Finance, Port Louis, Mauritius.

Participating:

For the Government of Mauritius

Mr. M. Baguant	Financial Secretary Ministry of Finance
Mr. R. Maugendre	Permanent Secretary Ministry of Commerce & Industry
Mr. J. Auleebux	Director of Supplies
Mr. D. Manna	Principal Assistant Secretary Ministry of Finance
Mr. D. Dusoruth	Senior Economist Minister of Economic Planning & Development

For the Government of the Unites States of America

Mr. Peter Strong	Regional PL 480 Officer, U.S. Regional Economic Development Service Office, Nairobi.

The Mauritian Negotiating team reviewed the draft of the proposed U.S. FY 81 PL 480 Title I Sales Agreement and had no objection to Part II, Item II through Item VI.

The Mauritian Negotiating team discussed at considerable length Part II, Item I, Commodity Table. Although the Government of Mauritius had requested Title I assistance to meet 1981-82 the rice and wheat flour requirements, it could not be determined at this time by the Negotiation team if the quantities of commodities proposed within the U.S. Dollar 3.5 million total will be appropriate for the Government of Mauritius to take the fullest advantage of the terms and conditions offered in the Agreement. The Negotiating team sought the United States (U.S.) Negotiator's concurrence to retain the option to adjust commodities and commodity quantities within Item I.

Upon consultation with officials in the United States Department of Agriculture (USDA) the U.S. Negotiator assured the Mauritian Negotiation team that Government of Mauritius would receive USDA's fullest collaboration and cooperation in adjusting the commodities and commodity quantities contained in Part II, Item I of the Agreement to meet the specific requirements as determined by the Government of Mauritius in so far as permitted by U.S. legislation, regulations and practices with the understanding that the total of commodities in Part II, Item I Commodity Table could not exceed U.S. Dollar 3.5 million.

It was suggested by the U.S. Negotiator and accepted by the Mauritian team that the Agreement be signed as proposed and that any mutually acceptable changes in Part II, Item I Commodity Table could be accomplished by amendment(s).

The Mauritian Negotiating team reviewed the discussion points as presented by the American Negotiator and have agreed that the following, which represents a summary in part of specific points, be included in these minutes:-

A. The Government of the United States insists that in the use of the resources made available through this agreement that 1) specific emphasis should be placed upon the implementation of the self-help measures of the agreement so as to contribute directly to development progress in the rural areas and enable the poor to participate actively in increasing agricultural production through small farm agriculture; and 2) the use of the sales proceeds will be for purposes which directly improve the lives of the poorest people and their capacity to participate in the development of their own country. Particular attention is to be given to assisting small farmers by providing incentives to increase food production.

B. The Government of Mauritius accepts responsibility for (a) quarterly compliance reporting on progress in meeting the usual marketing requirements (UMR) of the agreement; (b) arrival and shipping information reporting; (c) progress reports on implementing self-help measures (reports to be submitted to American Embassy not later than 15 November; and (d) report the use of sales proceeds.

C. The Government of Mauritius is advised that at least 50 percent of commodities purchased under the proposed Agreement must be moved in U.S. flag vessels if available at fair and reasonable rates.

D. The Government of Mauritius is reminded that under current U.S. regulatory and legislative requirements:-

1. Commodities will be made available under the proposed agreement only after the U.S. Secretary of Agriculture has determined that (1) adequate storage facilities are available in the recipient country at the time of exportation to prevent spoilage or waste of the commodity, and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing.

2. Purchase of food commodities under the Agreement must be made on the basis of Invitations for Bids (IFB's) and on the basis of bids (offers) which must conform to the IFB. Bids must be received and publicly opened in the United States. All awards under IFB's must be consistent with open, competitive, and responsive bid procedures.

3. Terms of all IFB's (including IFB's for ocean freight) must be approved by the General Sales Manager FAS/EC, USDA, prior to issuance. If the Government of Mauritius nominates a purchasing or shipping agent to procure commodities or arrange ocean transportation under the Agreement they must notify the General Sales Manager, Foreign Agriculture Service/EC, U.S. Department of Agriculture, in writing, of such nomination and provide a copy of the proposed agency Agreement. All purchasing and shipping agents must be approved by the Foreign Agriculture Service (FAS) in accordance with regulatory standards designed to eliminate certain potential conflicts of interest.

Negotiators for the Government of Mauritius explained that:-

A. The actual receiving, storage and distribution points and channels for rice and wheat flour under this agreement. Prices, independent of landed costs, to wholesalers, retailers and consumer are fixed, publicly posted and universally known to all consumers. The Government of Mauritius will be responsible for the import and primary storage of rice under the agreement. Private wholesale and retail merchants market rice imported by the Government. Private importers may also obtain rice import licenses and compete with government sales. However, the Government of Mauritius is responsible for providing an adequate daily supply of rice to the total population at reasonable prices within the range of the lowest income group including the people of Rodrigues. The Government of Mauritius through its Ministry of Price and Consumer Protection and Office of Supply assure adherence to established price and distribution procedures. A sophisticated computerized data processing system assists in monitoring rice and flour allocations which together with other controls eliminates potentials for rice and flour marketing outside of established channels Fines and other penalties are imposed for violations.

B. Appropriate offices of the Government would expeditiously relay to its Embassy in Washington 1) all instructions, information and authority necessary to enable timely implementation of the agreement, including commodity specifications, 2) contracting and delivery periods, 3) names and addresses of banks handling transactions, 4) authority to request and sign purchase authorizations and other necessary documents, 5) complete instructions regarding arrangements for purchasing and/or shipping agents, if applicable, and 6) instructions to contact the Program Operations Division, Office of the General Sales Manager, U.S. Department of Agriculture, regarding the foregoing.

The negotiators for the Government of Mauritius assured that operable letters of credit for both commodity and freight will be opened and confirmed by designated U.S. banks immediately after contracting under each PA and before vessels arrive at loading port.

Initialled:

For the Government of Mauritius

Date May 27, 1981

Madhurkarlall Baguant
Financial Secretary

For the Government of the United States of America

Date May 27, 1981

Thomas J. Burke
Deputy Chief of Mission

FINLAND

Transportation

Memorandum of understanding signed at Washington July 23, 1981;
Entered into force July 23, 1981.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE DEPARTMENT OF TRANSPORTATION OF THE
UNITED STATES OF AMERICA AND THE
MINISTRY OF TRADE AND INDUSTRY
OF THE REPUBLIC OF FINLAND
CONCERNING COOPERATION IN THE FIELD OF TRANSPORTATION

I. The Department of Transportation of the United States of America and the Ministry of Trade and Industry of the Republic of Finland (hereinafter referred to as the Parties), desiring to promote cooperation between their transportation specialists in finding solutions to problems of mutual concern, and in improving transportation systems and techniques without the costly and wasteful duplication of parallel national efforts, hereby undertake a program of mutually advantageous cooperation in the field of transportation.

II. To realize the benefits of cooperation pursuant to this Memorandum of Understanding, the Parties agree that:

(a) They will undertake to exchange information and develop other cooperative activities in the fields of transportation identified in para III below or as may be subsequently agreed.

(b) Cooperative projects shall be the subject of project agreements describing the information and experience to be exchanged, and setting forth the details of any task-sharing involved. Unless otherwise agreed, the working principle shall be that each party bears the cost of its participation. The project agreements will become Addenda to this Memorandum.

(c) Specific activities in connection with this program will be contingent upon the availability of funds.

(d) To implement this Memorandum of Understanding, each Party has appointed an appropriate official as its Program Coordinator. The Program Coordinators will be authorized by each Party to:

1. Authorize project agreements on behalf of the Parties. Project agreements and any amendments thereto shall be concluded by the cooperating entities;

2. Provide a point of contact for the other Party in making detailed arrangements for project activity; and

3. Arrange for regular reviews of the status and achievements of the overall program and its component projects.

(e) Any conditions relating to technical documents, patents, and other technical data and experience which restrict their use by the receiving Party or restrict their delivery to a third party shall be respected by the Parties.

III. Icebreaking technology (to include winter navigation, icebreaking operations, icebreaker technology, and icebreaker design process and criteria) has been identified as the initial area of mutual interest. [1]

IV. This Memorandum of Understanding shall enter into force upon signature and remain in force until terminated upon sixty (60) days written notice by either Party.

Done at Washington, July 23, 1981, in the English language.

For the Department of Transportation
of the United States of America

[2]

For the Ministry of Trade and Industry
of the Republic of Finland

[3]

[1] TIAS 10223; *post*, p. 3261.
[2] Andrew L. Lewis, Jr.
[3] Paavo Vayrynen.

FINLAND

Transportation: Icebreaking Technology

Agreement signed at Washington July 23, 1981;
Entered into force July 23, 1981.

PROJECT AGREEMENT

BETWEEN THE DEPARTMENT OF TRANSPORTATION OF THE UNITED STATES OF AMERICA AND THE MINISTRY OF TRADE AND INDUSTRY OF THE REPUBLIC OF FINLAND

FOR COOPERATION IN THE FIELD OF ICEBREAKING TECHNOLOGY

1. AUTHORITY:

This Project Agreement (hereinafter referred to as Agreement) is entered into pursuant to the Memorandum of Understanding regarding Cooperation in the Field of Transportation between the Department of Transportation of the United States of America (DOT) and the Ministry of Trade and Industry of the Republic of Finland (MTI), July 23, 1981.[1]

2. PURPOSE:

This Agreement is intended to establish a program of cooperation between the U.S. Coast Guard of the Department of Transportation and the National Board of Navigation of the Ministry of Trade and Industry (NBN) (hereinafter referred to as the cooperating parties) in the area of icebreaking technology. The particular objective is to exchange information concerning winter navigation; icebreaking operations; the utilization of icebreakers; and icebreaker technology, maintenance, and design process and criteria.

3. PROJECT OFFICERS:

A. Designation: Within thirty (30) days of the entry into force of this Agreement, each cooperating party will designate a Project Officer.

B. Responsibilities: Project Officers will be responsible for the accomplishment of the tasks and objectives set out in this Agreement, and will be the principal technical points of contact between the parties.

[1] TIAS 10222; *ante*, p. 3258.

In the event that significant differences arise in the interpretation of any part of this Agreement or its scope, and such difficulties are not readily solved at the technical level, such differences are to be referred to the DOT and MTI Program Coordinators for resolution.

4. FUNDING:

A. The participation of each cooperating party in the project is subject to the availability of funds.

B. Each cooperating party shall bear the direct costs (e.g., remuneration, travel expenses, per diem), associated with the participation of its personnel in the project, as well as the costs of any language services it may require.

C. Except as may be specifically agreed, the transfer of funds between the cooperating parties is not envisaged in connection with this Agreement.

5. DISCLAIMER:

Each cooperating party will exercise its best efforts to ensure the accuracy of all data transmitted to the other party pursuant to this Agreement, but the accuracy of such data is not guaranteed and neither party will hold the other party responsible in the event of claims arising from its use.

6. CONTRACTORS:

In the event that either cooperating party employs a contractor and/or consultant to conduct or participate on its behalf in exchanges pursuant to this Agreement, the name of the contractor and/or consultant and the scope of his assignment and authority shall be notified to the other party.

7. DURATION:

This Agreement shall enter into force upon signature, and remain in force for a period of two (2) years. It may be extended by mutual written agreement of the cooperating parties, or terminated by either party upon sixty (60) days written notification to the other party.

8. AMENDMENTS:

This Agreement may be amended at any time by mutual written agreement of the cooperating parties.

Done at Washington, D.C., July 23, 1981, in the English language.

For the Department of Transportation of the United States of America

[1]

For the Ministry of Trade and Industry of the Republic of Finland

[2]

[1] Donald C. Thompson.
[2] Pauli Opas.

REPUBLIC OF KOREA

Defense: Osan Air Base

Memorandum of understanding signed at Osan and Seoul June 19 and July 20, 1981;
Entered into force July 20, 1981.

MEMORANDUM OF UNDERSTANDING

오 산 기 지 내

BETWEEN

연합된

THE UNITED STATES AIR FORCE

엄 체 와

AND

전술 항공 통제본부의

THE REPUBLIC OF KOREA AIR FORCE

건축, 장비설치

CONCERNING

및

CONSTRUCTING, EQUIPPING AND OPERATING

운영에 관한

A COMBINED, HARDENED TACTICAL AIR CONTROL CENTER FACILITY

한.미 공군간의

AT OSAN AIR BASE

양 해 각 서

I. Pursuant to Article II and IV of the United States of America and

제1조: 1954 년 11월 17일 발효된 한.미 상호 방위조약

the Republic of Korea (US/ROK) Mutual Defense Treaty, effective

제2조 및 제4조 1967 년 2월 9일 발효한

17 November 1954,[1] and Article II, III, and V of the US/ROK Status of

한. 미 행정 협정 제2조, 3조 및 5조와

Forces Agreement (SOFA), effective 9 February 1967,[2] and as approved by

1977 년 9월 26일

[1] TIAS 3097; 5 UST 2368.
[2] TIAS 6127; 17 UST 1679.

the Joint Committee on 26 September 1977, at the 122nd meeting, the

제 122차 회의에서 한.미 행정 협정상의

following agreement is entered into by representatives of the United

한.미 합동 위원회의 인가에 따라

States Air Force (USAF) and the Republic of Korea Air Force (ROKAF).

한.미 공군 대표자는 다음의 협정을 맺는다.

This Memorandum of Understanding (MOU) supersedes MOU FB5294-MOU-2023,

본 양해각서는 1977 년 9월9일자 FB-5294-MOU-2023 의

dated 9 September 1977.

양해각서와 대체한다.

II. The purpose of this agreement is to provide for the construction

제 2조: 본 협정의 목적은 오산기지에 공동으로 사용되고, 충원되고

equipage and operation of a jointly used, manned, and operated Hardened

운영되는 엄체화 전술 항공 통제본부 기구의 건설, 장비설치 및

Tactical Air Control Center (H-TACC) facility at Osan AB, Korea.

운영을 위한 것이다.

1. The cost of bringing the facility to its initial operational

1항: 본 기구의 최초 운영능력 (IOC)을 부여하는데

capability (IOC) will be shared by the USAF and ROKAF as described

소요되는 설치 비용은 본 협정에서 기술된 바에 따라

herein. Cost sharing for any additional construction/utilities/equip-

한.미 공군이 분담한다. IOC 구비 그 이상의

ment/furnishings/enhancements over and above that dedicated to the

추가적인 건축 / 편의시설 / 장비 / 비품 제공 / 증강 등에

IOC configuration will be negotiated separately.

소요되는 비용분담은 별도로 협의한다.

2. A board consisting of equal representatives of both parties

2항: 쌍방 동등한 대표자로 구성되는 위원회는 본 협정상의 조건

will be appointed to coordinate ROKAF and USAF responsibilities under

및 조항하에 한.미 공군간의 책임을 조정하기 위해 임명된다.

the terms and conditions of this agreement. This board shall consist

본 위원회는 합동 의장의 지시에 따라 대표자들로 구성된다.

of representatives as directed by the joint chairmen. This board will

본 위원회는 시설 건축과 장비설치에 관해 행정적으로

administratively oversee facility construction and equipage and will

감독하며 H-TACC 내에 미래체계 (222 계획, KAIS, CCTV, DTSS 등)

be responsible for the integration of future systems into the H-TACC.

를 통합시키는데 대한 책임을 진다.

Responsibilities include the joint approval of all plans, change pro-

책임 사항은 모든 계획, 계안 변경, 설계 명세,

posals, design specifications, and construction practices. The board

및 건축 실무등에 대한 합동 승인을 포함한다.

will function until both parties reach an agreement that is is no

위원회는 쌍방이 더 이상 필요없다고 합의할 때까지 기능을

longer needed. The board will meet as directed by the joint chairmen.

발휘한다. 위원회는 합동의장의 지시에 따라 회의를 갖는다.

The joint chairmen will also notify required members as to time and

합동의장은 참석할 위원에게 시간 및 장소를 통고한다.

place.

3. The cost of providing utility services, repair and mainte-

3항. IOC 일자 이후 편의 시설지원, 수리 및 정비와

nance, and janitorial services after the IOC date will be shared by

건물 유지 관리에 소요되는 비용은 한.미 공군이

the USAF and ROKAF. Cost sharing factors will take into considera-

분담한다. 비용분담 요소는 한.미 점유 인원수,

tion the number of US and ROK occupants, the space occupied, electric

점유면적, 전력소모, 수행임무 및

power consumption, mission performed and equipment utilization. The

장비 사용등이 고려된다.

cost sharing details will be determined by the Facility Management

비용세부 분담 사항은 아래 3조에 의거 설립되는

Committee established in para III below. The cost sharing agreement

시설 관리 위원회에서 결정한다. 본 비용분담

will be included in an addendum to this MOU. Unique features and

협정은 본 MOU 의 첨부물에 포함시킨다. 어느 일방에

equipment used unilaterally will be maintained by the user.

의해서만 사용되는 특정설비 및 장비는 사용자측이 유지한다.

4. The USAF and ROKAF will share responsibility for the physical

4항. 본 기구내의 모든 통신망 및 장비의 물리적인 안전보호에 대한

safeguarding of all communication lines and equipment within the

책임은 한.미 공군이 공동 분담한다. 각자는 본 시설에 대한

facility. Each party will provide internal security for it.

내부 보안 조치를 취한다.

5. The facility will be jointly manned and operated except for

5항 본 기구는 "한국 공군 전용" 또는 "미공군 전용" 으로

those special areas to be established and designated as "ROKAF ONLY"

설정 및 지정된 지역을 제외하고는 공동으로 충원되고

or "USAF ONLY."

운영된다.

6. Any action required to be taken by either party under this

6항. 본 협정에 의거 어느 일방이 취하도록 요구되는

agreement (e.g., construction/equipage) shall be subject to the

모든 조치 (예: 건설 및 장비 설치) 는 그 사업 명목의

continuing availability of appropriated funds for the project.

계속적인 해당 각목 예산 한도내에서 시행한다.

III. A Facility Management Committee (FMC) will be formed no later

3조. 시설관리 위원회 (FMC) 는 장비 및 시설의 운영 및

than IOC to provide for the operation and maintenance of the equip-

유지의 준비를 위하여 IOC 이전까지 구성되어야 한다.

ment and facility. The committee will consist of ROKAF and USAF

본 위원회는 기구내 각 분야의 한.미 공군 대표자들로 구성되며

representatives from each of the sections within the facility and be

시설 요구사항이 충족되도록 보증할 책임을 지고 또 분쟁 발생시

responsible for insuring facility requirements are met and the resolu-

그 해결에 대해 책임을 진다. 여기에서 사용되는 시설

tion of disputes. Facility requirements, as used herein, include

요구사항이란 일상적 및 정기적 건물정비, 군수지원,

routine and periodic building maintenance, logistical support, elec-

전력공급, 장비관리와 유지, 운영경비, 청소업무 및 보안을

trical power supply, equipment management and maintenance, operating

포함한다. 보안대책은 미공군 규정 *207-1*, 미공군 규정 *207-21*

costs, janitorial services, and security. Security measures will be

및 한국 공군 규정 *205-1* 에 따른다.

in accordance with AFR 207-1, AFR 207-21 and ROKAFR 205-1. The

위원회는 시설과 설치된 장비의 배열을 통제한다.

committee will maintain control of the configuration of the facility

본 기구내에 장비 추가시 설치전에 위원회에 통보해야 한다.

and installed equipment. The committee will be notified before

또 건물로부터 철수되는 장비에 대해서는

equipment is added. Committee approval must be obtained prior to

위원회의 사전 승인을 득해야 한다.

withdrawing equipment from the facility. The FMC will function for

시설 관리 위원회는 본 양해각서 존속 기간동안 기능을

the duration of this MOU.

발휘한다.

IV. The USAF will, at its sole expense:

제4조: 미 공군은 단독 부담으로

1. Provide and install the communications and intelligence data

1항. 합동으로 인가된 한·미 공군 H-TACC 시설을 지원하는데

handling systems needed to support the jointly approved ROKAF/USAF

필요한 통신, 정보 자료처리 체제를 제공하고 설치

H-TACC facility.

한다.

2. Maintain U.S. installed communications and intelligence

2항. IOC 일자 이후 미군이 설치한 통신, 정보장비를

equipment after the IOC date.

유지한다.

3. Provide internal security for USAF classified material and

3항. 미 공군 기밀 자재를 위한 내부 보안을 제공하고

comply with ROKAF security protection procedures.

한국 공군 보안 보호절차를 따른다.

V. The ROKAF will, at its sole expense:

제5조: 한국 공군은 단독 부담으로

1. Design and construct the basic H-TACC facility, to include

1항. IOC 일자까지 편의 시설을 포함시켜 기본 H-TACC

utilities, until IOC date. The facility and utility system design,

시설을 설계하고 건축한다. 본 시설 및 편의시설

construction, safety criteria, and security specifications will

체제의 설계, 건축, 안전기준 및 보안 명세는

conform to standards acceptable to both parties. Utilities, as
양측이 수락할 수 있는 기준치에 일치되어야 한다.

used herein, include water, sewage, lighting, heating, air condi-
이기서 사용되는 면의 시설이란 급수, 하수,

tioning, electrical power, fire protection systems, and communica-
조명, 난방, 냉방, 전력, 소방체제 및

tions conduit. The facility electrical, water and sewage system will
통신도관을 포함한다. 본 전기, 급수 및 하수 시설은 오산

be interconnected to the Osan AB systems.
공군 기지 시설에 연결된다.

2. Provide the personnel responsible for maintaining the facility.
2항. 시설 유지를 위한 요원을 제공한다.

3. Provide internal security for ROKAF classified material and
3항. 한국 공군 기밀 자재를 위한 내부 보안을 제공하고 미공군

comply with USAF security protection procedures.
보안 보호 절차를 따른다.

VI. The ROKAF constructed basic facility will at all times remain
제6조: 한국 공군이 건설한 기본 시설은 항상 한국 공군 재산으로

the property of the ROKAF. The facility shall not be considered to
존속한다. 본 시설은 본 협정에서 허락된 이외의 다른 사용

be set aside or reserved for any use except as permitted hereunder.

목적으로 유보될 수 없다.

VII. The USAF installed communications and intelligence data handl-

제7조: 미 공군이 설치한 통신 및 정보자료 처리 체계는

ing system will at all times remain the property of the USAF. The

항상 미 공군 재산으로 존속한다.

communications and intelligence data handling systems shall not be

본 통신 및 정보자료 처리 체계는 본 협정에서

considered to be set aside or reserved for any use except as per-

허락된 이외의 다른 사용 목적으로 유보될 수

mitted hereunder.

없다.

VIII. Claims arising from the use or maintenance of the facility and

제8조: 본 시설 및 장비의 사용 또는 유지상에 발생되는

equipment will be processed under pertinent provisions of Article

청구권 문제는 한.미 행정 협정 제23조의 해당 조항에 의해

XXIII of the SOFA.

처리한다.

IX. This Memorandum of Understanding (MOU) will be bilingual (Korean

제9조: 본 양해 각서는 2개 국어 (한국어 및 영어) 로 작성되며

and English), and in the event of conflict between the Korean and

한국어판과 영어판간에 문구 해석상의 문제 발생시

English version, the English version will govern. Other conflicts

영어판이 우선한다. 기타 문제는 제3조에서 언급된

will be resolved by or through the Facility Management Committee

시설관리 위원회에 의해서 또는 시설 관리 위원회를

provided for in III above.

통해서 해결된다.

X. Revision or modification of this MOU may be accomplished by

제10조. 본 상호 양해각서의 수정 및 개정은 관련 쌍방의

mutual consent of the parties concerned. Written notification will

상호 동의로 이행된다. 변경 요구일자 최소 30일 이전에

be presented at least 30 days in advance of requested change. This

서면통고를 제출한다. 본 상호 양해각서는 매년 검토한다.

MOU will be reviewed annually. The annual review will begin 90 days

본 협정에 대한 정기적인 재 검토는 비 현실적인 사항 및

prior to the anniversary of its effective date by the parties hereto

이미 변동된 사항 등에 관하여 협정 발효일을

and non-substantive or fact-of-life changes made. Should substantive

기준으로 매년 90일전에 쌍방에 의해 시작된다.

changes be desired or required by the parties the MOU will be renego-

만약 쌍방이 실질적인 변경을 원망 / 요구하면 상호 양해각서를

tiated in draft form and be submitted for approval by the governments

초안 형식으로 작성, 재 협의하여 협의된 내용은

of the parties hereto, otherwise completed review may be certified by

쌍방 당국의 승인을 받거나 재 검토가 완료된 협정안은

the FMC provided for in III above.

제3조 소정 시설 관리 위원회의 확인을 받아야 한다.

XI. This agreement will become effective upon the date signatures

제11조: 본 협정은 한.미 공군의 각 해당 대표의 서명이

of the appropriate representatives of the ROKAF and the USAF have been

본 문서에 첨부된 일자부터 효력이 발생된다.

affixed hereunto. This agreement will terminate three years from

본 협정은 서명 일자로부터 3년이 경과하면 소멸된다.

the signature date. However, this agreement may be cancelled by either

그러나 본 협정은 어느 일방이 타방에 취소

party upon giving at least 90 days written notice to the other party.

90일간의 유예 기간을 두고 서면 통지하면 취소될 수 있다.

FOR THE REPUBLIC OF KOREA	FOR THE UNITED STATES
AIR FORCE	AIR FORCE
KIM, IN KI	FRED A. HAEFFNER
Lieutenant General, ROKAF	Major General, USAF
Commander, Combat Air Command	Commander, 314th Air Division
DATE: 20 July 1981	DATE: 20 July 1981

Kim Ki Yol
KIM, KI YOL

Colonel, ROKAF

Joint Chairman, Hardened TACC

Working Committee

DATE: 19 JUNE 1981

Richard H. Boivin
RICHARD H. BOIVIN

Colonel, USAF

Joint Chairman, Hardened TACC

Working Committee

DATE: 19 June 1981

FEDERAL REPUBLIC OF GERMANY

Shipping: Louisiana Offshore Oil Port

Agreement effected by exchange of notes
Signed at Washington July 2 and September 4 and 15, 1981;
Entered into force September 15, 1981.

The Secretary of State to the German Ambassador

[July 2, 1981]

Excellency:

I have the honor to refer to the discussions which have taken place between representatives of our two Governments in connection with the establishment of deepwater ports off the coast of the United States and the jurisdictional requirements of the United States Deepwater Port Act of 1974,[1] and to confirm that the two governments are in agreement that vessels registered in or flying the flag of the Federal Republic of Germany and the personnel on board such vessels utilizing the Louisiana Offshore Oil Port (LOOP, Inc), a deepwater port facility established under the Deepwater Port Act of 1974 for the purposes stated therein, shall, whenever they may be present within the safety zone of such deepwater port, be subject to the jurisdiction of the United States and the Federal Republic of Germany on the same basis as when in coastal ports of the United States.

His Excellency

Peter Hermes,

Ambassador of the Federal Republic of Germany.

[1] 88 Stat. 2126; 33 U.S.C. § 1501 *et seq.*

It is the understanding of the Government of the United States and of the Government of the Federal Republic of Germany that this agreement shall not apply to vessels registered in or flying the flag of the Federal Republic of Germany merely passing through the safety zone of the Louisiana Offshore Oil Port without calling at or otherwise utilizing the port.

If the foregoing is acceptable to your Government, I have the honor to propose that this note, together with your reply thereto confirming acceptance, shall constitute an Agreement between our two Governments, to enter into force upon the date of your reply to that effect, and to remain in force until terminated by six months' written notice by either party to the other.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

James Ferrer

The German Chargé d'Affaires ad interim to the Secretary of State

EMBASSY
OF THE
FEDERAL REPUBLIC OF GERMANY
WASHINGTON, D.C.

Excellency,

I have the honor to acknowledge receipt of your Note of today's date, the terms of which are as follows:

"I have the honor to refer to the discussions which have taken place between representatives of our two Governments in connection with the establishment of deepwater ports off the coast of the United States and the jurisdictional requirements of the United States Deepwater Port Act of 1974, and to confirm that the two Governments are in agreement that vessels registered in or flying the flag of the Federal Republic of Germany and the personnel on board such vessels utilizing the Lousiana Offshore Oil Port (LOOP, Inc.), a deepwater port facility established under the Deepwater Port Act of 1974 for the purposes stated therein, shall, whenever they may be present within the safety zone of such deepwater port, be subject to the jurisdiction of the United States and the Federal Republic of Germany on the same basis as when in coastal ports of the United States.

It is the understanding of the Government of the United States and of the Government of the Federal Republic of Germany that this agreement shall not apply to vessels registered in or flying the flag of the Federal Republic of Germany merely passing through the safety zone of the Louisiana Offshore Oil Port without calling at or otherwise utilizing the port.

His Excellency
Alexander Haig
Secretary of State
of the United States of America

TIAS 10225

If the foregoing is acceptable to your Government, I have the honor to propose that this note, together with your reply thereto confirming acceptance shall constitute an Agreement between our two Governments, to enter into force upon the date of your reply to that effect, and to remain in force until terminated by six months' written notice by either party to the other."

I have the honor to state that the Government of the Federal Republic of Germany agrees to this arrangement and will regard your Note and this reply as constituting an Agreement between our respective Governments on these matters.

This Agreement shall also reply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of the United States of America within three months of the date of entry into force of this Agreement.

The Government of the Federal Republic of Germany would like to point out that its consent to this Agreement results from its concern that vessels of the Federal Republic of Germany would otherwise not have been permitted to call on the Louisiana Offshore Oil Port. Its adherence to the Agreement should therefore not be construed as prejudicing in any way the attitude of the Government of the Federal Republic of Germany towards jurisdictional questions in maritime matters in other areas under discussion between our two countries or internationally.

Accept, Excellency, the assurances of my highest consideration.

Washington, D.C.
September 4, 1981

Fredo Dannenbring

(Dr. Fredo Dannenbring)
Chargé d'Affaires a.i.

TIAS 10225

The Acting Secretary of State to the German Chargé d'Affaires ad interim

SEPTEMBER 15, 1981

SIR:

I acknowledge the receipt of your note of September 4, 1981. In the note, the Government of the Federal Republic of Germany agrees to the terms of the note from the Department of State concerning United States jurisdiction over the Louisiana Offshore Oil Port (LOOP) and makes the following additional comments:

"This Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of the United States of America within three months of the date of entry into force of this Agreement.

"The Government of the Federal Republic of Germany would like to point out that its consent to this Agreement results from its concern that vessels of the Federal Republic of Germany would otherwise not have been permitted to call on the Louisiana Offshore Oil Port. Its adherence to the agreement should therefore not be construed as prejudicing in any way the attitude of the Government of the Federal Republic of Germany towards jurisdictional questions in maritime matters in other areas under discussion between our two countries or internationally."

The Department of State agrees to include these comments in an Agreement between our two countries on this matter and regards our note proposing the arrangement, your note of September 4, and this reply as constituting the aforestated Agreement.

Accept, Sir, the renewed assurances of my high consideration.

For the Acting Secretary of State:

JOHN TODD STEWART

The Honorable
DR. FREDO DANNENBRING,
Chargé d'Affaires ad interim of the
Federal Republic of Germany.

SAUDI ARABIA

Defense: Construction of Military Facilities

Agreement extending the agreement of May 24 and June 5, 1965, as extended.
Effected by exchange of notes
Dated at Jidda May 18 and July 22, 1981;
Entered into force July 22, 1981;
Effective May 24, 1981.

The American Embassy to the Saudi Arabian Ministry of Foreign Affairs

No. 301

The Embassy of the United States of America presents its compliments to the Royal Ministry of Foreign Affairs of the Kingdom of Saudi Arabia and has the honor to refer to recent discussions between both governments regarding the further extension of the Agreement for Military Construction of May 24 and June 5, 1965. [1]

As a result of these discussions, the Embassy has the honor to propose that the Agreement be extended for an additional period of one year beginning on May 24, 1981, and that this Note, together with the reply of the Royal Ministry to that effect, shall constitute an agreement between the two governments which shall enter into effect on that date.

The Embassy of the United States of America avails itself of the opportunity to renew to the Royal Ministry of Foreign Affairs the assurances of its highest consideration.

[SEAL]

Embassy of the United States of America

Jidda, May 18, 1981

[1] TIAS 5830, 9590; 16 UST 890; 30 UST 7319.

The Saudi Arabian Ministry of Foreign Affairs to the American Embassy

المملكة العربية السعودية
وزارة الخارجية

الرقم
التاريخ
الموافق
المرفقات

تهدى وزارة خارجية المملكة العربية السعوديه أطيب تحياتها الى سفارة الولايات المتحده الأمريكيه

وبالاشارة الى مذكرة السفاره رقم ٣٠١ وتاريخ ١٤٠١/٧/١٤ هـ الموافق ١٩٨١/٥/١٨ بشأن اقتراح السفاره بتجديد اتفاقية التعاون الفنيه المبرمة بين حكومة المملكة العربية السعودية وحكومة الولايات المتحده الأمريكيه لمدة عام ابتداء من ٢٤ مايو ١٩٨١م.

يسر الوزاره افادة السفاره بموافقة الجهة المختصه على تجديد الاتفاقية المشار اليها أعلاه لمدة عام ابتداء من ٢٤ مايو ١٩٨١ .

وتنتهز هذه الفرصة للاعراب عن فائق تحياتها .

٠٠/ يوسف

TRANSLATION

No. 3/1/36/86/87

Date: 21/9/1401 H (July 22, 1981)

Kingdom of Saudi Arabia
Ministry of Foreign Affairs

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America.

With reference to Embassy note No. 301, dated 14/7/1401H (May 18, 1981) concerning the Embassy's proposal to renew the Engineering Assistance Agreement concluded between the Government of the Kingdom of Saudi Arabia and the Government of the United States of America for a period of one year beginning May 24, 1981, the Ministry is pleased to inform the Embassy of the agreement of the competent authorities to renew the above-referenced agreement for a period of one year beginning May 24, 1981.

The Ministry avails itself of this opportunity to express its highest consideration.

[SEAL]

ITALY

Scientific and Technological Cooperation

Agreement signed at Rome July 22, 1981;
Entered into force July 22, 1981.

AGREEMENT BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE ITALIAN REPUBLIC

FOR

SCIENTIFIC AND TECHNOLOGICAL COOPERATION

The Government of the United States of America and the Government of the Italian Republic (hereinafter referred to as the Parties):

Wishing to strengthen further the firm bonds of friendship and cooperation between the two countries;

Aware of the importance of science and technology in national economic and social development, and of the contribution that effective scientific and technological cooperation, conducted on a basis of equality and mutual benefit, can make to the expansion of the human resources of both countries;

Recognizing that international cooperation offers a potential for expanding the scientific and technological capacity of all countries;

Affirming that the valuable and positive cooperation achieved under the Agreement for a Cooperative Program in Science between the United States of America and the Republic of Italy signed in Washington on June 19, 1967,[1] should be continued and strengthened;

Have agreed as follows:

ARTICLE I

1. The Parties shall promote scientific and technological cooperation for peaceful purposes in areas of mutual interest.

2. The principal objectives of this Agreement are to strengthen the scientific and technological capabilities of the two countries and broaden and expand relations between the scientific and technological communities.

ARTICLE II

Cooperation under this Agreement may be undertaken in the fields of agriculture, energy, space, health, environment, earth sciences, engineering, and other such areas of basic and applied science and technology and their management as may be mutually agreed.

[1] TIAS 6280, 9832; 18 UST 1268; 32 UST 2240.

ARTICLE III

Cooperation under this Agreement may include the exchange of scientific and technological information, joint conduct of research projects, exchange of scientists and technical experts, convening of seminars and meetings, training of scientists and technical experts, and such other forms of scientific and technological cooperation as may be mutually agreed.

ARTICLE IV

Pursuant to the objectives of this Agreement, the Parties shall encourage and facilitate, as appropriate, contacts and cooperation between government agencies, universities, research centers, institutions, firms and other entities of the two countries, and the conclusion of specific arrangements for the conduct of cooperative activities.

ARTICLE V

1. Specific arrangements implementing this Agreement may cover subjects of cooperation, procedures to be followed, treatment of intellectual property, funding and other appropriate matters. With respect to funding, costs shall be borne as mutually agreed. All cooperative activities under this agreement shall be subject to the availability of funds.

2. Cooperative activities conducted under this agreement shall be consistent with the laws and regulations of each country.

ARTICLE VI

Each Party shall, with respect to cooperative activities under this agreement, use its best efforts to facilitate prompt entry into and exit from its territory of equipment and personnel of the other side.

ARTICLE VII

Scientific and technological information derived from cooperative activities under this Agreement may be made available, unless otherwise agreed in an implementing arrangement under Article V (1), to the world scientific community through customary channels and in accordance with the normal procedures of the participating entities.

ARTICLE VIII

Scientists, technical experts, and entities of third countries or international organizations may be invited, upon the consent of both sides, to participate in activities being carried out under this Agreement.

ARTICLE IX

The United States Government designates the National Science Foundation as Executive Agent for the coordination and facilitation of cooperative activities under this Agreement. The National Science Foundation will act in coordination with the Department of State. As regards the Italian Republic, the responsibility for direction and review of the research activities envisaged by the Agreement will be the responsibility of the Ministry of Foreign Affairs, which shall act in agreement with the Minister for the Coordination of Scientific and Technological Research, having considered the views of the administrations and organizations interested in the individual sectors. To facilitate the development of the cooperative activities foreseen by the present agreement on the technical-scientific level, the Italian Party designates as Executive Agent the National Research Council.

ARTICLE X

The Parties shall conduct a joint review of activities under this Agreement every two years. These reviews shall take place alternately in the United States and Italy.

ARTICLE XI

1. This agreement shall enter into force upon signature and shall remain in force for five years, unless terminated earlier by either Party upon six months written notice to the other Party. It may be extended or amended by mutual written agreement of the Parties.

2. The termination of this Agreement shall not affect the validity or duration of any implementating arrangements made under it.

Done at Rome this twenty-second day of July 1981, in duplicate in the English and Italian languages, both equally authentic.

For the Government of
the United States of America:

Maxwell M. Rabb [1]

For the Government of
the Italian Republic:

[2]

[1] Maxwell Rabb.
[2] Sergio Romano.

ACCORDO FRA IL GOVERNO DEGLI STATI UNITI D'AMERICA ED IL GOVERNO DELLA REPUBBLICA ITALIANA PER LA COOPERAZIONE SCIENTIFICA E TECNOLOGICA

Il Governo degli Stati Uniti ed il Governo della Repubblica Italiana (qui di seguito indicati come Parti contraenti):

- animati dal desiderio di rafforzare ulteriormente gli stretti vincoli di amicizia e cooperazione fra i due Paesi;
- consapevoli dell'importanza della scienza e della tecnologia per lo sviluppo economico e sociale delle nazioni, e consapevoli altresì del contributo che un'efficace cooperazione scientifica e tecnologica, svolta su una base di uguaglianza e reciproco vantaggio, può dare al potenziamento delle risorse umane dei due Paesi;
- riconoscendo che la cooperazione internazionale costituisce uno strumento per il rafforzamento delle potenzialità di ciascun Paese in campo scientifico e tecnologico;
- convinti che la valida e positiva cooperazione attuata ai sensi dell'Accordo per un programma di cooperazione scientifica tra gli Stati Uniti d'America e la Repubblica Italiana firmato a Washington il 19 giugno 1967 debba essere proseguita e rafforzata;

hanno concordato quanto segue:

ARTICOLO I

1. Le Parti contraenti promuoveranno la cooperazione scientifica e tecnologica a scopi pacifici in settori di mutuo interesse.

2. Gli obiettivi principali del presente Accordo sono il rafforzamento delle capacità scientifiche e tecnologiche dei due Paesi e l'ampliamento e potenziamento dei rapporti fra i rispettivi ambienti scientifici e tecnologici.

ARTICOLO II

La cooperazione ai sensi del presente Accordo potrà essere svolta nei settori dell'agricoltura, dell'energia, dello spazio, della sanità, dell'ambiente, delle scienze geologiche, dell'ingegneria, come pure in quei settori della scienza di base e applicata e della tecnologia, ivi compresa la relativa gestione, che potranno essere reciprocamente concordati.

ARTICOLO III

La cooperazione ai sensi del presente Accordo potrà comprendere lo scambio di informazioni scientifiche e tecnologiche, la realizzazione congiunta di progetti di ricerca, lo scambio di scienziati ed esperti, l'organizzazione di seminari e di convegni, il perfezionamento di scienziati ed esperti, come pure quelle altre forme di cooperazione scientifica e tecnologica che potranno essere reciprocamente concordate.

ARTICOLO IV

Al fine di conseguire gli obiettivi del presente Accordo, le Parti contraenti incoraggeranno e faciliteranno, nella ma-

niera più opportuna, i contatti e la cooperazione fra organismi governativi, università, centri di ricerca, istituti, società e altri enti dei due Paesi, nonchè la conclusione di intese specifiche per la messa in atto di attività di cooperazione.

ARTICOLO V

1. Specifiche intese per l'attuazione del presente Accordo potranno riguardare i temi della cooperazione, le procedure da seguire, il trattamento degli aspetti relativi alla proprietà intellettuale, il finanziamento e altre questioni pertinenti. Per quanto concerne il finanziamento, i costi saranno ripartiti secondo quanto sarà stato convenuto. Ogni attività di cooperazione ai sensi del presente Accordo sarà subordinata alla disponibilità di fondi.

2. Le attività di cooperazione realizzate ai sensi del presente Accordo dovranno essere conformi alle leggi ed ai regolamenti dei rispettivi Paesi.

ARTICOLO VI

In relazione alle attività di cooperazione previste dal presente Accordo, ogni Parte contraente si impegna a fare tutto il possibile per agevolare, nei tempi più brevi, l'ingresso nel proprio territorio e l'uscita da esso di attrezzature e personale proveniente dall'altra Parte.

ARTICOLO VII

Salvo che sia diversamente concordato in una intesa di attuazione conclusa sulla base dell'art. V (1), le informazioni scientifiche e tecnologiche derivanti dalle attività di cooperazione di cui al presente Accordo potranno essere messe a disposizione della comunità scientifica mondiale attraverso i canali abituali ed in conformità alle normali procedure degli organismi partecipanti.

ARTICOLO VIII

Scienziati, esperti ed organismi di Paesi terzi o di organizzazioni internazionali potranno essere invitati, con il consenso di entrambe le Parti contraenti, a partecipare ad attività realizzate ai sensi del presente Accordo.

ARTICOLO IX

Il Governo degli Stati Uniti designa la National Science Foundation quale Organismo esecutivo per coordinare e facilitare le attività di cooperazione previste dal presente Accordo. La National Science Foundation agirà in coordinamento con il Dipartimento di Stato.

Per quanto riguarda la Repubblica Italiana, la responsabilità di indirizzo e verifica delle attività di ricerca previste dal presente Accordo spetterà al Ministero degli Affari Esteri, il quale agirà d'intesa con il Ministro per il Coordinamento della Ricerca Scientifica e Tecnologica, sentite le Amministrazioni ed Enti interessati nei singoli settori. Per facilitare lo svolgimento delle attività di cooperazione previste dal presente Accordo, sul piano tecnico-scientifico, la Parte italiana designa come Organismo esecutivo il Consiglio Nazionale delle Ricerche.

ARTICOLO X

Le Parti addiverranno ogni due anni ad una verifica congiunta delle attività svolte nel quadro del presente Accordo. Tale verifica avrà luogo alternativamente negli Stati Uniti e in Italia.

ARTICOLO XI

1. Il presente Accordo entrerà in vigore al momento della firma e sarà valido per cinque anni salvo che una delle Parti con-

traenti non lo denunci, mediante notifica scritta all'altra Parte, con un preavviso di sei mesi di anticipo. L'Accordo potrà essere prorogato o emendato previa intesa scritta fra le due Parti contraenti.

2. La cessazione del presente Accordo non pregiudicherà la validità o la durata di qualsiasi intesa specifica conclusa ai sensi dell'Accordo stesso.

Fatto a Roma il 22 luglio 1981, in duplice copia, in lingua inglese ed italiana, ambedue i testi facenti ugualmente fede.

PER IL GOVERNO DEGLI STATI UNITI D'AMERICA

Maxwell M. Rabb

PER IL GOVERNO DELLA REPUBBLICA ITALIANA

INDONESIA

Remote Sensing: Landsat System

Memorandum of understanding signed at Washington and Jakarta July 13 and 30, 1981;
Entered into force July 30, 1981.

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
INDONESIAN NATIONAL INSTITUTE OF AERONAUTICS AND SPACE
(LAPAN)
AND THE
UNITED STATES NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
(NASA)

The United States National Aeronautics and Space Administration (NASA), which conducts an experimental Landsat program and, under certain conditions, provides for direct reception of data from these satellites by stations operated outside the United States, and the Indonesian National Institute of Aeronautics and Space (LAPAN) which plans to establish a station to receive, process, archive and disseminate Landsat data, have decided to enter into this Memorandum of Understanding which, subject to the following terms and conditions, provides for (a) direct reception of data from NASA's currently operating and potential future experimental Landsat satellites by the LAPAN's ground station and (b) availability to NASA and others of Landsat data acquired by this LAPAN station.

1. For its part, LAPAN will:

(a) set up and operate a ground station at Pekayon (15 km south of Jakarta) for the reception and facilities for processing, archiving and dissemination of Landsat data at its own cost including the cost of the necessary communication links with the NASA Landsat Operations Control Center at the Goddard Space Flight Center, Greenbelt, Maryland;

(b) produce Landsat computer compatible tapes and image products;

(c) ensure, in conformance with US Landsat data dissemination practices, unrestricted public availability of all Landsat data receivable by the Pekayon ground station, within limits of its operational capabilities, at a fair and reasonable charge, and in a non-discriminatory manner. Copies of any agreements signed by LAPAN concerning the sale of Landsat data

from the LAPAN ground station shall be made available to NASA upon request and shall be consistent with the above provisions;

(d) if and when NASA selects Principal Investigators for research activities involving data from the LAPAN ground station, ensure the provision of processed Landsat data (imagery and digital products) to those principal investigators whose test sites are within range of that station for the period of coverage envisaged and under the same terms and conditions as NASA applies;

(e) provide to NASA reasonable support requested by NASA during a spacecraft emergency condition, such as the provision of duplicate station tapes or high density digital tapes should NASA have problems with data transmission;

(f) provide, at no charge to NASA and the US EROS Data Center, monthly catalog listings in an agreed format of all the Landsat data acquired by the Pekayon ground station. These catalog listings will also be made publicly available through the US EROS Data Center;

(g) make available to NASA for US Government experimental purposes, on a cost-free basis, on request, reasonable quantities of specified processed or unprocessed Landsat data including the original station tapes acquired by LAPAN.

2. For its part, NASA will:

(a) program, as requested, the Landsat Multispectral Scanner, Return Beam Vidicon and Thematic Mapper instruments within the technical parameters of the satellite system for coverage of the area within the acquisition radius of the Pekayon ground station and transmit the data acquired directly to this station. Programming details will be arranged by mutual agreement of the designated technical representatives;

(b) provide the Pekayon ground station with orbital elements for calculating the antenna pointing angles necessary to acquire the Landsat transmitted signal, and for processing the data acquired;

(c) process, on a time-available basis and as agreed by the designated technical representatives, a limited number of LAPAN data tapes for initial evaluation and calibration of the Pekayon station's performance.

LAPAN will ensure that such data tapes are fully compatible with NASA's data processing equipment and related software;

(d) make available to LAPAN for comparison purposes, a limited amount of Landsat data acquired by NASA covering selected portions of the Pekayon station's coverage zone.

3. LAPAN and NASA will each designate technical representatives to be responsible for coordinating the agreed functions and responsibilities of each party with the other. The technical representatives, or their deputies and advisors by mutual agreement, will participate in meetings of the Landsat Ground Station Operations Working Group. This Working Group, established by NASA, meets at least once per year and serves as a forum for exchange of technical information among station operators. Supplemental meetings between LAPAN and NASA will be held by mutual agreement.

4. The following additional understandings are confirmed:

(a) LAPAN, in conjunction with other Indonesian agencies, will use its best efforts to ensure that any radio frequency problem occurring in relation to Landsat data reception by the Pekayon station is resolved to the satisfaction of the parties to this Memorandum of Understanding. Questions concerning radio frequency interference by the Landsat spacecraft raised by parties in third countries will be referred to the US Government and NASA for reply. NASA plans to use the following frequencies for sensor data transmissions from the Landsat-D spacecraft:

Multispectral Scanner -- S-Band (2200-2300 MHz) and X-Band (8025-8400 MHz).
Thematic Mapper -- X-Band (8025-8400 MHz).

(b) It is understood that construction on the Pekayon ground station will be underway within fifteen months of the signing of this agreement. In the event that construction of the Pekayon station is not underway within fifteen months of the signing of this agreement, NASA, after consultation with LAPAN, shall have the option to terminate its activities under this agreement.

(c) When the expected coverage of a prospective Landsat ground station overlaps with that of the Pekayon station, NASA will inform LAPAN and will advise the prospective station operator of this LAPAN/NASA Memorandum of Understanding which provides for the unrestricted public availability of data acquired of areas within range of the Pekayon station at a fair and reasonable charge. Should the prospective station operator choose to pursue plans for a station with substantially overlapping coverage, NASA will encourage the prospective station operator and LAPAN to consult with a view toward reaching a mutually satisfactory understanding on responding to requests for data of the overlapping coverage area.

(d) The US EROS Data Center will include with all responses to requests for Landsat data acquired in the Pekayon station's coverage zone, a statement noting that the Pekayon station should have available more recent and/or more complete data. In the event that the EROS Data Center receives requests for specific Landsat scenes, products, or specific information on their holdings, EROS will supply the data and/or information requested.

(e) NASA and LAPAN may each release public information regarding their own activities under this Memorandum of Understanding and, insofar as the participation of the other party is concerned, after suitable consultation.

(f) NASA and LAPAN will exchange, upon request, such technical information as is mutually agreed to be necessary for the implementation of this Memorandum of Understanding, and is consistent with the export regulations of the two countries.

(g) The responsiblity for spacecraft control, health and status will remain with NASA throughout the execution of this Memorandum of Understanding.

(h) The NASA Landsat program is experimental in character and is subject to change in accordance with modifications in technical requirements and opportunities. NASA, however, undertakes to keep LAPAN informed in good time of any modification to the current satellites or plans for future experimental Landsat satellites which may affect the implementation of this Memorandum of Understanding.

(i) The ability of LAPAN and NASA to carry out their responsibilities under this Memorandum of Understanding is subject to the availability of appropriated funds.

(j) The U.S. has begun planning for an operational land remote sensing satellite system to follow the current NASA experimental Landsat program. Current plans call for the phased transfer from NASA to the National Oceanic and Atmospheric Administration (NOAA) of the Landsat-D and D' system with NOAA interim management until establishment of a private sector system authorized by the U.S. government. Landsat ground station operators will be kept informed by the U.S. government of plans for transfer of the Landsat-D system from NASA, for direct reception of sensor data during the period of NOAA interim management, and for establishment of the private sector system. It is understood that NOAA plans to conclude agreements for direct reception by foreign ground stations prior to the transfer of the Landsat-D system from NASA.

5. In consideration of the costs NASA is bearing for the Landsat space segment, LAPAN will pay to NASA the sum of $200,000 per annum beginning six months after the date the Pekayon station begins to acquire Landsat data. LAPAN will pay this sum in quarterly installments at the end of each quarter. After January 1, 1982, NASA may, after consultation with foreign ground station operators agencies, revise the rate and the arrangements. Such revised financial arrangements will be applied to all non-US Landsat stations on an equitable basis.

6. This Memorandum of Understanding shall enter into force after signature by both parties and continue in force until the turnover of the Landsat system from NASA or until September 30, 1983, whichever comes first. It may be extended by mutual agreement of the parties should NASA's experimental Landsat program extend beyond the September 30, 1983 date.

[1]

For the Indonesian National Institute of Aeronautics and Space

30/7/81.
Date

[2]

For the U.S. National Aeronautics and Space Administration

13/7/81
Date

[1] R. Sunaryo.
[2] James M. Beggs.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Satellites: Maritime Distress Alert System

Memorandum of understanding signed at Washington July 23, 1981;
Entered into force July 23, 1981.

MEMORANDUM OF UNDERSTANDING

Relating To A Satellite-Aided Maritime Distress Alert System

23 July 1981

"Maritime Administration of the Government of the United States of America and the Department of Trade of the Government of the United Kingdom of Great Britain and Northern Ireland ("the Administrations"),

Considering it desirable to develop and test a compatible satellite Emergency Position-Indicating Radio Beacon (EPIRB) system, using spread spectrum techniques in connection with the Co-ordinated Trials Programme being organised by the Committee Consultative International Radio (CCIR) of the International Telecommunications Union,

Wishing to collaborate to this end,

Have reached the following Understanding:"

RESPONSIBILITIES

1. The two Administrations will: -

(i) arrange the provision of a combined system which will include a United States receiver processor system and a suitably designed United Kingdom satellite - EPIRB unit;

(ii) decide upon and carry out a joint programme covering the development and testing of the combined system referred to in (i) above. This programme will include detailed timetables relating to the provision of the component parts of the system and to matters relating to the system's testing as part of the CCIR Co-ordinated Trials Programme;

(iii) arrange the exchange of all pertinent technical information relating to the design, development, construction and testing of the combined system, subject to the concurrence of both Administrations.

(iv) consult together during the CCIR Co-ordinated Trials;

2. The United Kingdom Administration will provide a suitably designed satellite - EPIRB unit.

3. The United States Administration will provide a receiver processor unit and be responsible for conducting the trials of the combined system and will prepare and present the report on the completion of the trials.

4. Each Administration will be responsible for its own costs associated with the collaboration in pursuance of this Understanding and will not seek to impose any financial obligation on the other Administration arising from its own expenditure or that of its contractor.

5. Neither Administration will be precluded from undertaking work on satellitte - EPIRB systems outside the terms of this Understanding.

MEANS OF LIAISON

6. The liaison necessary to carry out the terms of this Understanding will be organised by the two Administrations. They will arrange the means for the detailed technical collaboration to be carried out between representatives of their respective contractors: the MITRE Corporation in the United States and McMichael Limited in the United Kingdom.

REVIEW

7. The two Administrations will review periodically the implementation of the terms of this Understanding in order to ensure that collaboration between the two Administrations continues to fulfill its purpose and that the responsibilities assumed in accordance with this Understanding are being carried out.

TERMINATION

8. This Understanding will come into effect on 23 July 1981 and will cease to have effect on the completion of the CCIR Co-ordinated Trials Programme, unless terminated before that time by either Administration giving a minimum four month notice to the other of its intention to terminate the Understanding.

"The foregoing record represents the understandings reached between the two Administrations upon the matters referred to therein.

Signed at Washington, D.C., on 23 July 1981.

Carl S. Mathews [1]
.....
For the Maritime Administration of the Government of the United States

[2]
.....
For the Department of Trade of the Government of the United Kingdom of Great Britain and Northern Ireland"

[1] Carl S. Mathews.
[2] Malcolm A. Johnson.

ITALY

Satellites: Launching Services

Memorandum of understanding signed at Washington and Rome July 23 and 29, 1981;
Entered into force September 21, 1981.

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

OF THE UNITED STATES OF AMERICA

AND THE

CONSIGLIO NAZIONALE DELLE RICERCHE OF ITALY

CONCERNING THE FURNISHING OF

LAUNCHING AND ASSOCIATED SERVICES

FOR

THE IRIS PAYLOAD

The National Aeronautics and Space Administration of the United States of America (hereinafter referred to as NASA) and the Consiglio Nazionale delle Ricerche of Italy (hereinafter referred to as CNR) set forth in this Memorandum of Understanding their general agreement as to the responsibilities of the parties and the terms and conditions under which NASA will furnish a Space Transportation System (STS) launch and associated services for the Italian Research Interim Stage (hereinafter referred to as IRIS) payload on a reimbursable basis. For purposes of this Memorandum of Understanding, the IRIS payload is defined to include an appropriate satellite as mutually agreed to by the parties to this MOU, together with the Italian Research Interim Stage (IRIS), its standard airborne support equipment (ASE), and any other property provided by CNR or its contractors or subcontractors for launching on the STS.

CNR and NASA intend that at an appropriate time in the future, they will negotiate and enter into a Launch Services Agreement which will express the specific terms and conditions under which NASA will furnish launching and associated services for the IRIS payload, consistent with the general agreement set forth in this Memorandum of Understanding.

NASA will provide launch services, in accordance with the United States policy governing the provision of launch assistance announced October 9, 1972, for those satellite projects and payloads which are for peaceful purposes and are consistent with obligations under relevant international agreements and arrangements and applicable U.S. laws and regulations.

The launching of the IRIS payload pursuant to this Memorandum of Understanding is part of a research and development program of CNR.

ARTICLE I

RESPONSIBILITIES

NASA and CNR shall be responsible for provision of relevant technical, operational and mission-peculiar information and services appropriate and necessary for the implementation of the mission covered by this Memorandum of Understanding, as agreed to in the relevant Launch Services Agreement.

ARTICLE II

REIMBURSABLE PROVISIONS

Reimbursement for launch services provided by the STS will be in accordance with the terms of 14 CFR 1214.1, 1214.2 or other

applicable subsections. Any revisions in reimbursement provisions published after the signature of the Launch Services Agreement will not be retroactively applied to such agreement, unless such application is agreed to in writing by both parties.

NASA representatives may participate, if requested by CNR, in meetings in Italy pertaining to IRIS development, IRIS - STS interface or other launch services problems. CNR will bear the actual cost of such participation.

ARTICLE III

LIMITATIONS OF LIABILITY

The Launch Services Agreement to be entered into shall state the allocation of any liability that may arise out of the launch and associated services to be provided by the United States and by its contractors and subcontractors under this Memorandum of Understanding.

ARTICLE IV

DOCUMENTATION AND REPORTS

A. NASA and CNR will exchange, through their respective project managers, all documents and information required for successful accomplishment of the IRIS payload mission that are subject to this Memorandum of Understanding and such documents and information will be used as provided for in the Launch Services Agreement.

B. In using data passed to NASA under Article I and paragraph A of this Article, NASA will utilize its established procedures to respect and protect the confidentiality of proprietary information designated as such by CNR, as provided for in the Launch Services Agreement.

ARTICLE V

REGISTRATION OF SPACE OBJECTS

CNR shall ensure that each CNR space object separated into earth orbit from the STS Orbiter shall be registered in accordance with the Convention on the Registration of Objects Launched Into Outer Space, 28 U.S.T. 695, T.I.A.S. No. 8480, and that appropriate information regarding the space object shall be furnished to the Secretary General of the United Nations. CNR shall have jurisdiction and control over CNR space objects upon separation from the Orbiter in earth orbit. NASA shall ensure that the STS shall be registered in accordance with the Convention.

ARTICLE VI

DURATION AND AMENDMENT

A. This Memorandum of Understanding shall terminate on December 31, 1987, except with respect to launching and associated services provided after that date under a Launch Services Agreement executed on or before that date.

B. This Memorandum of Understanding may be amended in writing by mutual consent of the parties.

C. This Memorandum of Understanding may be terminated by either party upon six months' written notice, except with respect to launching and associated services provided after that date under a Launch Services Agreement executed on or before that date. In the event of termination, any financial questions arising therefrom will be resolved in accordance with the Launch Services Agreement or other applicable agreement(s) between the parties; or, if no agreement has been concluded, by reference to applicable NASA regulations; or, in the absence of such regulations, by negotiation on the basis of precedents established in Launch Service Agreements between NASA and other users.

ARTICLE VII

ENTRY INTO FORCE

This Memorandum of Understanding will enter into force following signature and upon confirmation by the Government of the United States and the Government of Italy through an exchange of diplomatic notes.[1]

For the National Aeronautics and Space Administration of the United States of America

[2]

DATE: JUL 23 1981

For the Consiglio Nazionale delle Ricerche of Italy

[3]

DATE: 29 LUG. 1981

[1] Sept. 21, 1981.
[2] James M. Beggs.
[3] Ernesto Quagliariello.

NEW ZEALAND

Defense: Communications Centre Support

Memorandum of understanding signed at Washington July 24 and August 3, 1981;
Entered into force August 3, 1981.

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MEMORANDUM OF UNDERSTANDING BETWEEN

the

GOVERNMENT OF THE UNITED STATES OF AMERICA

and the

NEW ZEALAND MINISTRY OF DEFENCE

concerning

COMMUNICATIONS CENTRE SUPPORT FOR THE

ROYAL NEW ZEALAND AIR FORCE ORION MODERNISATION UNIT

Introduction

1. Whereas the need exists for the Royal New Zealand Air Force (RNZAF) to improve the transmission and receipt of operational message traffic during the refurbishment of avionics and electronic systems for their Lockheed P3B Aircraft; and whereas the United States Air Force (USAF) Communications Center at the Air Force Plant Representative Office (AFPRO), Seattle, Washington has the capability and resources to provide over-the-counter record communications support for the Royal New Zealand Air Force Orion Modernisation Unit (RNZAF OMU), the US Department of Defense (USDOD), acting through the Director, Defense Communications Agency (DCA), and the New Zealand Ministry of Defence (NZMOD), acting through the Director of Defence Communications (DDC), hereby enter into the following agreement.

The Agreement

2. It is agreed that the USAF Communications Facility at AFPRO, Seattle will provide over-the-counter message service for the RNZAF OMU. The DDC will offer reciprocal services as a matter of international courtesy. Further, the Director, DCA, and the DDC will jointly establish the message handling characteristics for this over-the-counter arrangement.

Communication Procedures

3. The RNZAF OMU will conform with the communication operating procedures established by the AFPRO Air Force Communications

Center to obtain the desired over-the-counter service. The Commanding Officer of the RNZAF OMU will collaborate with the Officer-in-Charge of the Air Force Communications Center at AFPRO, Seattle in discharging this responsibility. The following conditions are understood to prevail for this arrangement;

a. Traffic Characteristics. All traffic will be in narrative message form. In all cases the traffic will contain subject matter directly associated with the modernisation program. Outgoing traffic prepared for transmission by the RNZAF OMU will be prepared on standard US message forms and in a format acceptable to the serving USAF Communications Center.

b. Traffic Precedence. Up to Immediate. However, it is understood that unless unusual circumstances dictate a higher precedence, all traffic sent and received by the RNZAF OMU will be of routine precedence.

c. Security Classification. All traffic sent by or received for the RNZAF OMU will not exceed the security level of confidential. Security classifications exceeding confidential will be handled by separate means by the RNZAF OMU.

d. Anticipated Traffic Volume. Approximately 250 messages per month, both send and receive will be exchanged. The US reserves the right to impose minimize procedures or to institute other measures to limit traffic flow.

e. Delivery Arrangements. The RNZAF OMU will be responsible for providing the necessary personnel and transportation to pick-up and deliver all message traffic. Traffic delivery will normally take place during normal duty hours Monday through Friday. After duty pick-up or delivery of priority or higher messages

will conform to the existing operating characteristics/limitations of the USAF terminal at AFPRO Seattle.

f. Traffic Address and Routing. Traffic will originate and terminate from/to the plain language address of "RNZAF OMU SEATTLE WA". With the exception of commercially refiled messages, there is no restriction as to where the RNZAF OMU address traffic provided that all originated traffic deals with matters directly associated with the modernisation program. Normally, the RNZAF OMU will originate and receive traffic to/from; NZDEF WASHINGTON DC, NZDEF WELLINGTON NZ, NZDEF AIR WELLINGTON NZ, RNZAF AUCKLAND NZ, and 5 SQN RNZAF AUCKLAND NZ. Messages addressed to the New Zealand Defence Staff in Washington, DC will be routed through the Canadian Military Communications Centre at the Canadian Defence Liaison Staff in Washington using communications facilities and arrangements now in existence between Canada and New Zealand. The RNZAF OMU is responsible for providing valid routing indicators for activities not currently listed in the ACP 117 series.

Funding

4. NZMOD will continue to provide similar communications facilities for USDOD activities in New Zealand. Because of the reciprocal nature of the arrangement there will be no financial exchange between the two National Defence Organizations (NDOs) arising from the communications service provided for by the arrangement.

Security

5. In order to prevent unauthorized disclosure or compromise of classified information, both NDO's will impose such security measures in accordance with the standing security arrangements

and procedures prevailing between them, to afford classified material protection substantially the same as that normally given by the supplying NDO.

Liabilities

6. Neither NDO shall be held liable for damages resulting from any failure in the handling of narrative record telecommunications under the provisions of this agreement.

Effective Date and Modifications

7. This agreement will be effective from the date of signature of this letter for a period that will end on or about 1 December 1983. Either NDO may cancel specific arrangements or extend the period of this agreement with a minimum notice of 90 days although a notice of 6 months is preferable. Specific arrangements may be modified at any time by the mutual consent of the two NDO's.

Signature

8. The foregoing represents a record of the agreement between the Ministry of Defence of New Zealand and the US Department of Defense upon the matters referred to therein and will enter into force upon signature by their authorized representatives.

For the Ministry of Defence New Zealand:		For the Department of Defense, United States:	
Signature:		Signature:	
Name:	IAN MURRAY GILLARD	Name:	WILLIAM J. HILSMAN
Title:	Air Commodore	Title:	LTGEN, USA
Agency:	Head New Zealand Defence Staff	Agency:	Defense Comm Agency
Date Signed:	3 August 1981	Date Signed:	24 July 1981

MEXICO

Boundary Waters: Colorado River Emergency Deliveries

Agreement extending minute no. 263 of the International Boundary and Water Commission, United States and Mexico, of August 6, 1980.
Effected by minute no. 266
Adopted at Ciudad Juarez August 3, 1981;
Entered into force November 13, 1981.

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

MINUTE NO. 266

Cd. Juarez, Chih.
August 3, 1981

EXTENSION OF THE EFFECT OF MINUTE NO. 263
RELATING TO THE EMERGENCY DELIVERIES OF COLORADO RIVER WATER
FOR USE IN TIJUANA

The Commission met in the offices of the Mexican Section at 10:00 a.m., on August 3, 1981, to consider the need to extend for one year the effect of Minute No. 263,[1] relating to the emergency deliveries which the United States makes to Mexico of waters from the Colorado River at a point on the international boundary near the city of Tijuana, Baja California.

The Commission considered the Mexican Commissioner's advice that although the construction by his Government of the aqueduct to supply Colorado River waters to Tijuana is near completion, it is not expected to be in operation before the end of 1982. The Commissioners also considered that on August 20, 1980, the emergency deliveries of water made by the United States to Mexico were suspended and that although there was not a need to resume deliveries in the period that followed, circumstances may again exist to require those deliveries and they agreed to continue the agreement for the emergency water deliveries on a stand-by basis.

The Commission then considered the information provided by the United States Commissioner relating to the conditions under which the agencies of his country, which own and operate the hydraulic facilities used to make the emergency deliveries of water to Mexico, would be willing to continue such emergency deliveries as may be requested by Mexico until August 14, 1982.

Based on the above considerations, the Commission adopted the following resolution, subject to the approval of the two Governments:

1. That the effect of Minute No. 263 of August 6, 1980, be extended until August 14, 1982, with the understandings in Points 2 and 3 of this resolution.

2. That during the one-year extension of the effect of Minute No. 263, the emergency deliveries of Colorado River water made by the United States to Mexico at a point on the international boundary near the city of Tijuana not be made at rates exceeding those corresponding to the monthly volumes specified in Schedule I of Exhibit 2 accompanying Minute No. 240,[2] and that Mexico make its request three days in advance of each resumption and of each suspension of such deliveries.

3. That at the beginning of the one-year extension of the effect of Minute No. 263, Mexico reestablish its Irrevocable Letter of Credit in the amount of $500,000 (Five Hundred Thousand Dollars 00/100) U.S. currency, which amount would cover the costs of approximately three months of continuous emergency deliveries to Mexico and there-

[1] Adopted Aug. 6, 1980. TIAS 9896; 32 UST 3269.
[2] Adopted June 13, 1972. TIAS 8712, 9290, 9896; 28 UST 7188; 30 UST 1803; 32 UST 3269.

after reestablish, when and as needed, the Letter of Credit in the same amount to cover the cost of such deliveries as Mexico may request during the remainder of the one-year extension.

The meeting was adjourned.

J. F. Friedkin
Commissioner for the United States

Joaquin Bustamante R.
Commissioner for Mexico

M. R. Ybarra
Secretary for the United States Section

Lorenzo Padilla S. P.
Secretary for the Mexican Section

COMISION INTERNACIONAL DE LIMITES Y AGUAS
ENTRE MEXICO Y LOS ESTADOS UNIDOS

Ciudad Juárez, Chih.,
a 3 de agosto de 1981.

ACTA NUM. 266.

PRORROGA DE LA VIGENCIA DEL ACTA NUM. 263
REFERENTE A LAS ENTREGAS DE EMERGENCIA DE AGUA
DEL RIO COLORADO PARA SU USO EN TIJUANA.

La Comisión se reunió en las Oficinas de la Sección Mexicana a las 10:00 horas del día 3 de agosto de 1981, para considerar la necesidad de prorrogar por un año la vigencia del Acta Núm. 263 referente a las entregas de emergencia que hacen los Estados Unidos a México de aguas del Río Colorado en un punto de la línea divisoria internacional cercano a la ciudad de Tijuana, Baja California.

La Comisión consideró el informe del Comisionado Mexicano de que no obstante que la construcción, por parte de su Gobierno, del acueducto para abastecer con aguas del Río Colorado a Tijuana, está próxima a su terminación, no se espera que esté en operación antes de fines de 1982. Los Comisionados también consideraron que con fecha 20 de agosto de 1980, las entregas de emergencia de agua hechas por los Estados Unidos a México, fueron suspendidas y de que, aunque no hubo una necesidad de reanudar las entregas en el período siguiente, existirán circunstancias en que esas entregas se requieran y acordaron que sería conveniente continuar el convenio para las entregas de emergencia de agua en base eventual.

La Comisión consideró enseguida la información proporcionada por el Comisionado de los Estados Unidos relativa a las condiciones bajo las cuales las dependencias de su país, que son propietarias y operan las instalaciones hidráulicas que se utilizan para hacer las entregas de emergencia de agua a México, están dispuestas en continuar tales entregas de emergencia que sean solicitadas por México hasta el 14 de agosto de 1982.

Basada en las consideraciones anteriores, la Comisión adoptó la siguiente resolución, sujeta a la aprobación de los dos Gobiernos.

1. Que la vigencia del Acta Núm. 263 del 6 de agosto de 1980 se prorrogue hasta el 14 de agosto de 1982 de acuerdo con los puntos 2 y 3 de esta resolución.

2. Que durante la prórroga de un año de la vigencia del Acta Núm. 263, las entregas de emergencia de agua del Río Colorado hechas por los Estados Unidos a México en un punto de la línea divisoria internacional cercano a la ciudad de Tijuana no se hagan en proporciones que excedan a las que correspondan a los volúmenes mensuales especificados en la Tabla Núm. 1 del anexo 2 que acompaña el Acta Núm. 240, y que México haga su solicitud con tres días de anticipación para cada reanudación y para cada suspensión de tales entregas.

3. Que al principio del año de prórroga para la vigencia del Acta Núm. 263, México reestablezca su carta de Crédito Irrevocable por la cantidad de $500,000.00 (QUINIENTOS MIL DOLARES 00/100) moneda de los Estados Unidos, cuya cantidad cubriría los costos de entregas de emergencia contínuas a México por tres meses aproximadamente y después de ésto reestablezca, como y cuando se necesite, la Carta de Crédito en la misma cantidad para cubrir el costo de tales entregas como México las solicite durante el resto del año de prórroga.

Se levantó la Sesión.

Comisionado de México

Comisionado de los Estados Unidos

Secretario de la Sección Mexicana

Secretario de la Sección de los Estados Unidos

SINGAPORE

Trade in Textiles and Textile Products

Agreements amending the agreement of September 21 and 22, 1978, as amended.
Effected by exchanges of letters
Signed at Washington August 7 and 13, 1981;
Entered into force August 13, 1981.
And exchange of letters
Signed at Singapore August 19, 1981;
Entered into force August 19, 1981.

The Acting Deputy Assistant Secretary of State for Trade and Commercial Affairs to the Singapore Second Secretary for Commercial Affairs

DEPARTMENT OF STATE

Washington, D.C. 20520

Mr. K.P. Wong
Second Secretary for Commercial Affairs
Embassy of the Republic of Singapore
1824 R Street, N.W.
Washington, D.C. 20009

Dear Mr. Wong:

I refer to paragraph 5 of the Agreement between the United States and Singapore relating to Trade in Cotton, Wool, and Man-Made Fiber Textiles and Textile Products, with annexes, effected by exchange of notes September 21, and September 22, 1978 as amended[1] ("the Agreement"), and to our conversations concerning exports from Singapore to the U.S. of products classified in textile categories 317 and 319.

On behalf of my Government, I have the honor to propose that for the 1981 Agreement year the consultation levels for categories 317 and 319 be increased as follows:

Category	Present Consultation Level	Proposed Consultation Level for 1981
317	8 million square yards	12 million square yards
319	3 million square yards	3.5 million square yards

If this proposal is acceptable to your Government, this letter and your letter of confirmation on behalf of your Government shall constitute an amendment to the Agreement.

Sincerely,

William H. Edgar

William H. Edgar
Acting Deputy Assistant Secretary
Trade and Commercial Affairs
Bureau of Economic and
Business Affairs

[1] TIAS 9214, 9610, 9719, 9774, 9817, 9958; 30 UST 700; 31 UST 287; 32 UST 511, 1333, 2060, 4438.

The Singapore First Secretary to the Acting Deputy Assistant Secretary of State for Trade and Commercial Affairs

FA 68—4252-78

EMBASSY OF THE
REPUBLIC OF SINGAPORE
1824 R STREET, N.W.,
WASHINGTON, D.C. 20009.
TEL: (202) 667-7555

Cable Address: SINGAWAKIL WASHINGTON
Our Ref:
Your Ref:

August 13, 1981

Mr William H Edgar
Acting Deputy Assistant Secretary
Trade and Commercial Affairs
Bureau of Economic and Business
Affairs
Department of State
Washington, DC 20520

Dear Mr Edgar

I refer to the Agreement between the United States and Singapore relating to Trade in Cotton, Wool, and Man-Made Fiber Textiles and Textile Products, with annexes, effected by exchange of notes September 21, and September 22, 1978 as amended ("the Agreement"), and to your letter dated August 7, 1981 concerning exports from Singapore to the United States of products classified in textile categories 317 and 319.

On behalf of my Government, I have the honour to accept your Government's proposal that for the 1981 Agreement year the consultation levels for categories 317 and 319 be increased as follows:-

Category	Present Consultation Level	Proposed Consultation Level for 1981
317	8 million square yards	12 million square yards
319	3 million square yards	3.5 million square yards

Your letter of August 7, 1981 and this letter shall constitute as amendment to the Agreement.

Yours sincerely

K P WONG
FIRST SECRETARY

The Acting Deputy Assistant Secretary of State for Trade and Commercial Affairs to the Singapore Second Secretary for Commercial Affairs

DEPARTMENT OF STATE

Washington, D.C. 20520

Mr. K.P. Wong
Second Secretary for Commercial Affairs
Embassy of the Republic of Singapore
1824 R Street, N.W.
Washington, D.C. 20009

Dear Mr. Wong:

I refer to the Agreement between the United States and Singapore relating to Trade in Cotton, Wool, and Man-Made Fiber Textiles and Textile Products, with annexes, effected by exchange of notes September 21, and September 22, 1978 as amended ("the Agreement"), and to our conversations concerning exports from Singapore to the U.S. of products classified in textile category 604.

On behalf of my Government, I have the honor to propose that Annex B be amended to establish a specific limit in 1981 of 1.1 million lbs. for category 604.

If this proposal is acceptable to your Government, this letter and your letter of confirmation on behalf of your Government shall constitute an amendment to the Agreement.

Sincerely,

William H. Edgar

William H. Edgar
Acting Deputy Assistant Secretary
Trade and Commercial Affairs
Bureau of Economic and
Business Affairs

The Singapore First Secretary to the Acting Deputy Assistant Secretary of State for Trade and Commercial Affairs

FA 68—4252-78

EMBASSY OF THE
REPUBLIC OF SINGAPORE
1824 R STREET, N.W.,
WASHINGTON, D.C. 20009.
TEL: (202) 667-7555

Cable Address: SINGAWAKIL WASHINGTON
Our Ref:
Your Ref:

August 13, 1981

Mr William H Edgar
Acting Deputy Assistant Secretary
Trade and Commercial Affairs
Bureau of Economic and Business
Affairs
Department of State
Washington, DC 20520

Dear Mr Edgar

I refer to the Agreement between the United States and Singapore relating to Trade in Cotton, Wool, and Man-Made Fiber Textiles and Textile Products, with annexes, effected by exchange of notes September 21, and September 22, 1978 as amended ("the Agreement"), and to your letter dated August 7, 1981 concerning exports from Singapore to the United States of products classified in textile category 604.

On behalf of my Government, I have the honour to accept your Government's proposal that Annex B be amended to establish a specific limit in 1981 of 1.1 million lbs for category 604.

Your letter of August 7, 1981 and this letter shall constitute an amendment to the Agreement.

Yours sincerley

K P WONG
FIRST SECRETARY

The American Political/Economic Counselor to the Singapore Director-General, Department of Trade, Ministry of Trade and Industry

EMBASSY OF THE
UNITED STATES OF AMERICA

30 Hill Street
Singapore 0617
August 19, 1981

Mr. Ridzwan Dzafir
Director-General
Department of Trade
Ministry of Trade and Industry
Republic of Singapore

Dear Mr. Ridzwan:

I refer to paragraph ten of the Agreement between the United States of America and the Republic of Singapore relating to trade in cotton, wool, and manmade fiber textiles and textile products, with annexes, effected by exchange of notes dated September 21 and 22, 1978 as amended ("The Agreement"), and to our discussions of July 19, 1981 concerning exports from Singapore to the United States of products classified in Textile Category 347/348.

It is my Government's understanding that our Governments have agreed that, for Category 347/348 only, Singapore may utilize six percent carry forward for the 1981 agreement year. The amount of carry forward utilized will be deducted from the 1982 agreement year level.

If the above conforms to your Government's understanding, this letter and your letter of agreement on behalf of your Government shall constitute an amendment to the Agreement between our two Governments.

Sincerely,

William E. Spruce

William E. Spruce
Political/Economic Counselor

The Singapore Director-General, Department of Trade, Ministry of Trade and Industry, to the American Deputy Chief of Mission

DEPARTMENT OF TRADE
MINISTRY OF TRADE AND INDUSTRY

Suite 201, 2nd Floor
World Trade Centre, Te'ok Blangah Road
Singapore 0409 REPUBLIC OF SINGAPORE

Telephone: 2719388
Telex. Tradept RS 23052
Cab'e "SECONOMICS"

YOUR REF

OUR REF

DATE 19 Aug 81

Mr William E Spruce
Deputy Chief of Mission
Embassy of the United States
of America
30 Hill Street
Singapore 0617

Dear Mr Spruce

I refer to paragraph 10 of the Agreement between the United States of America and the Republic of Singapore relating to trade in cotton, wool and man-made fiber textiles and textile products, with annexes, effected by exchange of notes dated 21 and 22 September 1978 as amended ("the Agreement") and to our discussions of 19 July 1981 concerning exports from Singapore to the United States of products classified in textiles category 347/348 and to your leter dated 19 August 1981 concerning the application of carrying forward provision from 1982 to 1981 in respect of category 347/348.

I am pleased to inform you that your Government's understanding as outlined in paragraph 2 of your letter conforms with that of my Government. This letter and your letter constitute an amendment to the Agreement between our two Governments.

Yours sincerely

RIDZWAN DZAFIR
DIRECTOR-GENERAL
DEPARTMENT OF TRADE

TRADE 2

MEXICO

Telecommunications: Frequency Modulating Broadcasting

Agreements amending the agreement of November 9, 1972, as amended.
Effected by exchange of notes
Signed at Washington March 3 and May 21, 1981;
Entered into force May 21, 1981.
And exchange of notes
Signed at Washington May 22 and August 4, 1981;
Entered into force August 4, 1981.
And exchange of notes
Signed at Washington August 19 and October 26, 1981;
Entered into force October 26, 1981.
And exchange of notes
Signed at Mexico and Tlatelolco October 7 and December 9, 1981;
Entered into force December 9, 1981.

The Mexican Ambassador to the Secretary of State

EMBAJADA DE MEXICO 0151

SEÑOR SECRETARIO,

Por instrucciones de mi Gobierno me permito comunicar a Vuestra Excelencia que con referencia al Convenio entre los Estados Unidos Mexicanos y los Estados Unidos de América, relativo a la Radiodifusión en Frecuencia Modulada en la Banda de 88 a 108 MHZ, suscrito el 9 de noviembre de 1972, y de acuerdo con la coordinación efectuada entre la Dirección General de Telecomunicaciones de la Secretaría de Comunicaciones y Transportes y la Comisión Federal de Comunicaciones (FCC), se acordó modificar el Cuadro A del Plan de Adjudicaciones del Anexo II al Convenio de referencia, de la siguiente manera:

Ciudad	*Cancelar*	*Adicionar*
Piedras Negras, Coahuila	260 A	260 B
Monclova, Coahuila	262 A	262 B
Saltillo, Coahuila	------	228 A

El Gobierno de los Estados Unidos Mexicanos desearía saber si la anterior propuesta es aceptable para el Gobierno de los Estados Unidos de América, y, de ser así, esta Nota y la Nota de respuesta de Vuestra Excelencia constituirían un Acuerdo que modifique el Convenio Relativo a la Radiodifusión en Frecuencia Modulada en la Banda de 88 a 108 MHZ, el cual entraría en vigor en la fecha de la Nota de respuesta.

Aprovecho la oportunidad para renovar a Vuestra Excelencia las seguridades de mi más alta y distinguida consideración.

WASHINGTON, D.C., *a 3 de marzo de 1981*

HUGO B MARGÁIN

Hugo B. Margáin
Embajador

Excelentísimo señor
ALEXANDER M. HAIG
Secretario de Estado
Departmento de Estado
Washington, D.C.

The Secretary of State to the Mexican Ambassador

MAY 21, 1981

EXCELLENCY:

I have the honor to acknowledge the receipt of your note 0151 dated March 3, 1981, the text of which translated into English reads as follows:

On the instructions of my Government I should like to inform Your Excellency that with respect to the Agreement between the United Mexican States and the United States of America concerning frequency modulation broadcasting in the 88 to 108 MHz band signed on November 9, 1972,[1] and in accordance with cooperation arranged between the Telecommunications Bureau of the Department of Communications and Transport and the Federal Communications Commission (FCC), it was agreed to amend part A of the allotment plan in Annex II of the aforesaid agreement as follows:

City	*Delete*	*Add*
Piedras Negras, Coahuila	260 A	260 B
Monclova, Coahuila	262 A	262 B
Saltillo, Coahuila	------	228 A

[1] TIAS 7697, 9436, 9647, 10159; 24 UST 1815; 30 UST 3927; 31 UST 4841; *ante*, p. 1959.

The Government of the United Mexican States would like to know if the preceding proposal is acceptable to the Government of the United States of America. If your Government accepts these changes, this note and Your Excellency's reply thereto shall constitute an agreement amending the Agreement concerning frequency modulation broadcasting in the 88 to 108 MHz band, which shall enter into force on the date of the reply.

In reply, I have the honor to inform Your Excellency that the Government of the United States of America accepts the above quoted proposal and confirms that your note and this reply constitute a modification of the Agreement of November 9, 1972, which will become effective on the present date.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

JAMES FERRER

His Excellency
HUGO B. MARGAIN,
Ambassador of Mexico.

The Mexican Ambassador to the Secretary of State

0372

Señor Secretario:

Por instrucciones de mi Gobierno me permito comunicar a Vuestra Excelencia que con referencia al Convenio entre los Estados Unidos Mexicanos y los Estados Unidos de América, relativo a la Radiodifusión en Frecuencia Modulada en la Banda de 88 a 108 MHZ, suscrito el 9 de noviembre de 1972, y de acuerdo con la coordinación efectuada entre la Dirección General de Telecomunicaciones de la Secretaría de Comunicaciones y Transportes y la Comisión Federal de Comunicaciones (FCC), se acordó modificar el Cuadro "A" del Plan de Adjudicaciones del Anexo II al Convenio de referencia, de la siguiente manera:

Ciudad	Cancelar	Adicionar
Ciudad Juárez, Chihuahua	290 B	290 C

El Gobierno de los Estados Unidos Mexicanos desearía saber si la anterior propuesta es aceptable para el Gobierno de los Estados Unidos de América, y, de ser así, esta Nota y la Nota de respuesta de Vuestra Excelencia constituirían un Acuerdo que modifique el Convenio Relativo a la Radiodifusión en Frecuencia Modulada en la Banda de 88 a 108 MHZ, el cual entraría en vigor en la fecha de la Nota de respuesta.

Aprovecho la oportunidad para renovar a Vuestra Excelencia las seguridades de mi más alta y distinguida consideración.

Washington, D.C., a 22 de mayo de 1981

Hugo B. Margáin
Embajador

Excelentísimo señor
Alexander M. Haig, Jr.
Secretario de Estado,
Washington, D. C.

The Secretary of State to the Mexican Ambassador

DEPARTMENT OF STATE
WASHINGTON

August 4, 1981

Excellency:

I have the honor to acknowledge the receipt of your note 0372 dated May 22, 1981, the text of which translated into English reads as follows:

"On the instructions of my Government I wish to inform Your Excellency that, with respect to the Agreement between the United Mexican States and the United States of America concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band signed on November 9, 1972, and in accordance with coordination between the Telecommunications Bureau of the Department of Communications and Transport and the Federal Communications Commission (FCC), it was agreed that the following change would be made in Part A of the Allotment Plan in Annex II of the aforementioned agreement:

City	Delete	Add
Ciudad Juarez, Chihuahua	290 B	290 C

His Excellency
Hugo B. Margain,
Ambassador of Mexico.

"The Government of the United Mexican States wishes to know if the foregoing proposal is acceptable to the Government of the United States of America; if so, this note and Your Excellency's reply thereto shall constitute an agreement modifying the Agreement Concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band which shall enter into force on the date of your reply."

In reply, I have the honor to inform Your Excellency that the Government of the United States of America accepts the above quoted proposal and confirms that your note and this reply constitute a modification of the Agreement of November 9, 1972, which will become effective on the present date.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

James Ferrer

The Mexican Ambassador to the Secretary of State

0590

Señor Secretario:

Por instrucciones de mi Gobierno me permito comunicar a Vuestra Excelencia que conforme a lo establecido en la Parte VII, Artículo 16, del Convenio entre los Estados Unidos Mexicanos y los Estados Unidos de América, relativo a la Radiodifusión en Frecuencia Modulada en la Banda de 88 a 108 MHZ, suscrito el 9 de noviembre de 1972, y de acuerdo con la coordinación efectuada entre la Dirección General de Telecomunicaciones de la Secretaría de Comunicaciones y Transportes y la Comisión Federal de Comunicaciones (FCC), se convino en modificar el Cuadro "A" del Plan de Adjudicaciones del Anexo II al Convenio de referencia, de la siguiente manera:

Ubicación	Cancelar	Adicionar
Sabinas Hidalgo, Nuevo León (26° 29' 59" LN 100° 12' 00" LW)	———	243C

El Gobierno de los Estados Unidos Mexicanos desearía saber si la anterior propuesta es aceptable para el Gobierno de los Estados Unidos de América y, de ser así, esta Nota y la Nota de respuesta de Vuestra Excelencia constituirán un Acuerdo que modifica el Convenio relativo a la Radiodifusión en Frecuencia Modulada en la Banda de 88 a 108 MHZ, el cual entrará en vigor en la fecha de la Nota de respuesta.

Aprovecho la oportunidad para renovar a Vuestra Excelencia las seguridades de mi más alta y distinguida consideración.

Washington, D. C., a 19 de agosto de 1981

Hugo B. Margáin
Embajador

Excelentísimo señor
Alexander M. Haig, Jr.
Secretario de Estado
Washington, D. C.

The Secretary of State to the Mexican Ambassador

October 26, 1981

Excellency:

I have the honor to acknowledge the receipt of your note 0590 dated August 19, 1981, the text of which translated into English reads as follows:

"On instructions of my Government, I should like to inform Your Excellency that under the provisions of Part VII, Article 16, of the Agreement Between the United Mexican States and the United States of America Concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band, signed on November 9, 1972, and in accordance with the coordination effected between the Office of Telecommunications of the Department of Communications and Transportation and the Federal Communications Commission (FCC), it was agreed to amend Part A of the Allotment Plan in Annex II to the aforesaid agreement as follows:

Location	Cancel	Add
Sabinas Hidalgo, Nuevo Leon (26°29'59"N., 100°12'W.)	----	243C

"The Government of the United Mexican States would like to know if the foregoing proposal is

His Excellency

Hugo B. Margain,

Ambassador of Mexico.

acceptable to the United States Government. If it is acceptable, this note and Your Excellency's reply shall constitute an agreement amending the Agreement Concerning Frequency Modulation Broadcasting in the 88 to 108 MHz Band, which shall enter into force on the date of your reply."

In reply, I have the honor to inform Your Excellency that the Government of the United States of America accepts the above quoted proposal and confirms that your note and this reply constitute a modification of the Agreement of November 9, 1972, which will become effective on the present date.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

James Ferrer

The American Ambassador to the Mexican Secretary of Foreign Relations

EMBASSY OF THE
UNITED STATES OF AMERICA

Mexico, D.F., October 7, 1981

No. 2025

Excellency:

I have the honor to refer to the Agreement of November 9, 1972, between the United States of America and the United Mexican States concerning frequency modulation broadcasting in the 88 to 108 MHz frequency band, as amended.

The United States of America proposes the following further amendment to Table B of the Allotment Plan appearing in Annex II to the 1972 Agreement:

Table B

City	Channel No. Delete	Channel No. Add
Show Low, Arizona	---	243C
Temecula, California	---	205A
Tucson, Arizona	---	219A
Nogales, Arizona	217C	217A
McDary, Arizona	201A	---
Whiteriver, Arizona	---	201A
Indio, California	---	224A
Lake Havasu City, Arizona	240A	266C, 286C
Bullhead, Arizona	272A	274C

The Directorate General of Telecommunications has informed the Federal communications Commission that it has no technical

objection to the proposed amendment, which conforms to the channel separation requirements of Article 6, Section C, of the 1972 Agreement.

If the foregoing proposal is acceptable to your Government, I further propose that this note and your reply to that effect constitute an Agreement modifying the 1972 Agreement, as amended, and entering into force on the date of your reply.

Accept, Excellency, the renewed assurance of my highest consideration.

[1]

His Excellency

Licenciado Jorge Castañeda y Alvarez de la Rosa

Secretary of Foreign Relations

Mexico, D. F.

[1] John Gavin.

The Mexican Secretary of Foreign Relations to the American Ambassador

ESTADOS UNIDOS MEXICANOS
SECRETARIA DE RELACIONES EXTERIORES
MEXICO

Tlatelolco, D.F., a 9 de diciembre de 1981.

Señor Embajador:

318233 Tengo el honor de referirme a la atenta nota de Vuestra Excelencia número 2025, fechada el 7 de octubre de 1981, cuyo texto vertido al español es el siguiente:

" Tengo el honor de referirme al Acuerdo del 9 de noviembre de 1972, entre los Estados Unidos de América y los Estados Unidos Mexicanos, relativo a la Radiodifusión en Frecuencia Modulada en la Banda de 88 a 108 MHz, enmendado.

Los Estados Unidos de América proponen las siguientes enmiendas adicionales a la Tabla B del Plan de Adjudicaciones del Anexo II del Acuerdo de 1972:

Tabla B

Ciudad	No. de Canal	
	Suprimir	Agregar
Show Low, Arizona	-----	243C
Temecula, California	-----	205A
Tucson, Arizona	-----	219A
Nogales, Arizona	217C	217A
Mc Dary, Arizona	201A	---
Whiteriver, Arizona	-----	201A
Indio, California	-----	224A
Lake Havasu City, Arizona	240A	266C, 286C
Bullhead, Arizona	272A	274C

* * *

Al Excelentísimo Señor
John A. Gavin,
Embajador de los Estados Unidos de América,
México, D., F.

La Dirección General de Telecomunicaciones informó a la Comisión Federal de Comunicaciones que no existe objeción técnica a las enmiendas propuestas, de conformidad con los requerimientos de separación de canal del Artículo 6, Sección C, del Acuerdo de 1972.

Si la anterior propuesta es aceptable para su Gobierno, propongo que esta nota y su respuesta constituyan un Acuerdo modificando el Acuerdo de 1972, enmendado, y entrará en vigor en la fecha de su respuesta."

En respuesta a la atenta nota de Vuestra Excelencia arriba transcrita, tengo el agrado de comunicarle que el Gobierno de México acepta los términos de la misma y, en consecuencia, conviene en que la nota 2025 de Vuestra Excelencia y la presente, constituyan un Acuerdo entre nuestros dos Gobiernos que modifica el Convenio relativo a la Radiodifusión en Frecuencia Modulada en la Banda de 88 a 108 MHz, firmado el 9 de noviembre de 1972, el cual entrará en vigor en la fecha de la presente nota.

Aprovecho la oportunidad para renovar a Vuestra Excelencia el testimonio de mi más alta consideración.

TRANSLATION

UNITED MEXICAN STATES
MINISTRY OF FOREIGN RELATIONS
MEXICO

Tlatelolco, D.F., December 9, 1981

Mr. Ambassador:

I have the honor to refer to Your Excellency's note No. 2025 of October 7, 1981, which, translated into Spanish, reads as follows:

[For the English language text, see pp. 3339-3340.]

In reply to your note transcribed above, I am pleased to inform you that the Government of Mexico concurs in the terms thereof and, consequently, agrees that note No. 2025 and this reply shall constitute an Agreement between our two Governments amending the Agreement of November 9, 1972, concerning frequency modulation broadcasting in the 88 to 108 MHz frequency range, which shall enter into force on today's date.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

J Castañeda

Jorge Castaneda y Alvarez de la Rosa

His Excellency
John A. Gavin,
Ambassador of the United States of America,
Mexico, D.F.

SWAZILAND

Telecommunications: Foreign Broadcast Information Service (FBIS)

Agreement signed at Mbabane August 3, 1981; Entered into force August 3, 1981.

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE KINGDOM OF SWAZILAND
FOREIGN BROADCAST INFORMATION SERVICE BUREAU

Whereas the Government of the United States of America ("United States Government") has requested that it be permitted to establish a Bureau of the Foreign Broadcast Information Service ("FBIS") in the Kingdom of Swaziland; and

Whereas the Government of the Kingdom of Swaziland ("Swaziland Government") has granted permission for said Bureau to be established; and

Whereas the FBIS is engaged solely in the reporting of developments and comments from public information media of value to the United States foreign affairs analysts and policy makers;

Now therefore, the parties agree that:

1. The United States Government may establish a Bureau of the Foreign Broadcast Information Service in Swaziland, which Bureau will monitor public television, radio and press agency transmissions as well as selections from the public press of southern African countries.

2. All FBIS material monitored in Swaziland will be available on a daily basis to the Swaziland Government free of charge. The FBIS will also make available free of charge other FBIS materials desired by the Swaziland Government from other areas of the world.

3. The Bureau may be staffed by up to four Americans and 10 to 15 non-Americans. To the greatest extent possible, the non-Americans will be recruited in Swaziland, except where linguistic or technical capabilities require they be recruited from outside Swaziland. FBIS staff from the United States will be used from time to time, on a temporary basis, particularly in the Bureau's formative stages which would not be for more than eighteen months.

4. The Bureau and its personnel will operate as an administrative and technical component of the United States Embassy under the authority of the United States Ambassador.

5. The FBIS will operate out of space to be rented in a commercial building in Mbabane and will only employ rooftop or ground level receiving antennae in a reasonable inconspicuous manner.

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6. In order to assure that the agreed purposes are being adhered to, the Bureau operations may be inspected freely by appropriate Swaziland Government officials upon twelve hours notice to the United States Embassy or such lesser period as may be mutually agreed upon by both parties.

7. This agreement may be terminated by either party upon six months notice to the other party. Subsequent to such notice, the Swaziland Government may request the FBIS to limit its activities to those administrative procedures required to close the Bureau.

Done in Mbabane, Swaziland, the 3rd of August, 1981.

FOR THE GOVERNMENT OF THE KINGDOM OF SWAZILAND:

Senator Benjamin Mshamndane Nsibandze
Deputy Prime Minister

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

John J. Hartley II
Charge d'Affaires, a.i.

PHILIPPINES

Defense Assistance: Articles and Services

Agreement effected by exchange of notes
Signed at Manila August 19 and 30, 1981;
Entered into force August 30, 1981.

The American Chargé d'Affaires ad interim to the Philippine Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

MANILA, *August 19, 1981*

No. 478

EXCELLENCY:

I have the honor to refer to the recent discussions between representatives of our two governments concerning the United States Military Assistance Program with the Republic of the Philippines during the United States fiscal year 1981, and the effect of United States laws applicable to the funding of such programs by the United States. I have the further honor to confirm, on behalf of my government, the following understandings reached as a consequence of the aforesaid discussions:

1. Subject to the terms and conditions set forth in the Mutual Defense Assistance Agreement of June 26, 1953[1] and as provided herein, the United States shall grant to the Government of the Republic of the Philippines defense articles and defense services of a value not to exceed $25 million during the United States fiscal year 1981. The value of such defense articles and defense services shall be calculated by the United States in accordance with the provisions of applicable United States laws and regulations, including the Foreign Assistance Act of 1961,[2] as from time to time amended, and applicable appropriations legislation.

2. The defense articles and defense services to be furnished pursuant to this agreement shall be furnished in accordance with, and subject to,

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[1] TIAS 2834; 4 UST 1682.
[2] 75 Stat. 424; 22 U.S.C. § 2151.

the United States laws referred to in Paragraph 1, and such successor legislation as may be hereafter enacted. Deliveries of such defense articles, and the performance of such defense services, may be suspended or terminated by the United States under unusual or compelling circumstances when the national interest of the United States so requires.

3. Selection of particular defense articles or defense services (hereafter in this Paragraph referred to collectively as "items") to be furnished pursuant to this agreement shall be made from time to time by the United States Department of Defense, taking into consideration the requests, if any, of the Ministry of National Defense of the Government of the Republic of the Philippines for particular items. The United States Department of Defense may cancel the furnishing of any item, or quantity thereof, at any time in order to recoup funds sufficient to pay any net increase in costs to the United States of the aggregate of selected items within the dollar value specified in Paragraph 1. In effecting such recoupments, the United States Department of Defense will take into consideration the views, if any, of the Ministry of National Defense of the Government of the Republic of the Philippines as to which items or quantities thereof should be cancelled.

4. In accordance with the requirements of the Foreign Assistance Act of 1961, as amended—

A) Title to defense articles to be furnished to the Government of the Republic of the Philippines pursuant to this agreement must be transferred to the Government of the Republic of the Philippines on or before September 30, 1986 and defense services to be performed pursuant to this agreement must be performed not later than September 30, 1986;

B) Defense articles to which the United States obtains or retains title after September 30, 1986, will not be furnished pursuant to this Agreement, and defense services not performed on or before September 30, 1986 will not be performed pursuant to this agreement. The obligations of the United States with respect to the furnishing of such articles and services pursuant to this Agreement shall cease as of October 1, 1986, and

C) Delivery of defense articles furnished pursuant to this Agreement to the Government of the Republic of the Philippines must commence on or before September 30, 1986, if such delivery is to be financed from the United States military assistance funds. Delivery of such articles after that date shall be at the expense of the Government of the Republic of the Philippines.

I have the honor to propose that this note, together with your Excellency's Note confirming the acceptance by the Government of the Republic of the Philippines of the foregoing understandings, shall constitute an Agreement between our two governments with respect to the United States fiscal year 1981 effective from the date of your Excellency's Note in reply.

Accept, Excellency, the renewed assurances of my highest consideration.

JAMES D. ROSENTHAL
Charge d'Affaires, a.i.

His Excellency
CARLOS P. ROMULO,
Minister of Foreign Affairs of
the Republic of the Philippines
Manila

The Philippine Acting Minister for Foreign Affairs to the American Chargé d'Affaires ad interim

REPUBLIKA NG PILIPINAS
MINISTRI NG PGNAYANG PANLABAS
MAYNILA[1]

30 AUGUST 1981

SIR:

This is with reference to the Embassy's note No. 478 dated 19 August 1981, referring to recent discussions between representatives of our two governments concerning the United States Military Assistance Program with the Republic of the Philippines during the United States fiscal year 1981, and the effect of the United States laws applicable to the funding of such program by the United States, and confirming certain understandings enumerated in the note which were reached as a consequence of said discussions.

The Philippine Government wishes to confirm its acceptance of the aforementioned understandings and, accordingly, considers the Embassy's note and this reply as constituting an Agreement between the Philippines and the United States with respect to United States fiscal year 1981, effective on the date of this reply.

This note supersedes the Ministry's note dated 28 August 1981[2] which is hereby withdrawn.

Accept, Sir, the renewed assurances of my high consideration.

MANUEL COLLANTES

Manuel Collantes
Acting Minister for Foreign Affairs

The Honorable
JAMES D. ROSENTHAL
Charge d'Affaires a.i.
Embassy of the United States of America
Manila

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[1] In translation reads: "Republic of Philippines
Department of Foreign Affairs
Manila"

[2] Not printed.

UNION OF SOVIET SOCIALIST REPUBLICS

Grains Agreement

Memorandum of understanding extending the agreement of October 20, 1975;
Signed at Vienna August 5, 1981;
Entered into force August 5, 1981.

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO EXTEND THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE SUPPLY OF GRAIN OF OCTOBER 20, 1975

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics:

Recalling the Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on the Supply of Grain, signed on October 20, 1975;[1] and

In accordance with Article IX of the said Agreement, which provides that it will expire on September 30, 1981, "unless extended for a mutually agreed period";

Have agreed to extend the said Agreement until September 30, 1982.

This Memorandum of Understanding enters into force on execution.

Done at Vienna, this 5th day of August, 1981, in duplicate, in the English and Russian languages, both texts being equally authentic.

For the Government of the United States of America:

William E. Brock [2]

For the Government of the Union of Soviet Socialist Republics:

[3]

[1] TIAS 8206; 26 UST 2971.
[2] William E. Brock.
[3] Boris Gordeyev.

Меморандум о взаимопонимании
между Правительством Соединенных Штатов Америки и Правительством Союза Советских Социалистических Республик в отношении продления Соглашения между Правительством Соединенных Штатов Америки и Правительством Союза Советских Социалистических Республик о поставках зерна от 20 октября 1975 года

Правительство Соединенных Штатов Америки и Правительство Союза Советских Социалистических Республик,

ссылаясь на Соглашение между Правительством Соединенных Штатов Америки и Правительством Союза Советских Социалистических Республик о поставках зерна, подписанное 20 октября 1975 года, и

в соответствии со статьей IX указанного Соглашения, которая предусматривает, что оно истечет 30 сентября 1981 года, "если по согласию Сторон оно не будет продлено на дополнительный, взаимно согласованный период",

согласились продлить указанное Соглашение до 30 сентября 1982 года.

Настоящий Меморандум о взаимопонимании вступает в силу в день его подписания.

Совершено в Вене 5 августа 1981 года в двух экземплярах, каждый на английском и русском языках, причем оба текста имеют одинаковую силу.

За Правительство
Соединенных Штатов Америки

За Правительство
Союза Советских Социалистических Республик

EGYPT

Defense: Privileges and Immunities

Interim agreement effected by exchange of notes
Signed at Cairo July 26, 1981;
Entered into force July 26, 1981.
And agreement effected by exchange of notes and letter
Signed at Cairo July 26, 1981;
Entered into force December 5, 1981.
With agreed minute.

The American Ambassador to the Egyptian Deputy Prime Minister and Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 1103 CAIRO, *July 26, 1981*

EXCELLENCY:

I have the honor to refer to recent discussions between our two Governments concerning the military, civilian and contractor personnel, and their dependents under the supervision of the Office of Military Cooperation of the American Embassy, who are responsible for administration of the Military Assistance Program in Egypt; and other United States military and civilian personnel, including the vessels, aircraft, equipment and other property required for their use, who may visit the Arab Republic of Egypt from time to time at the invitation of the Government of the Arab Republic of Egypt. In order to provide for the legal status of these personnel while in Egypt, I propose that pending the completion of a comprehensive agreement between our two Governments on the legal status of various categories of U.S. military personnel and accompanying civilian personnel in Egypt,[1] they be accorded the same privileges, immunities and treatment as provided under the exchange of notes dated April 13 and 25, 1974, as amended,[2] related to the clearance of mines and unexploded ordnance from the Suez Canal.

If the foregoing is acceptable to the Government of the Arab Republic of Egypt, I have the honor to propose that this note and your note in reply confirming acceptance will constitute an agreement between our respective Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

ALFRED L ATHERTON, JR.

His Excellency
GENERAL KAMAL HASSAN ALI
Deputy Prime Minister and
Minister of Foreign Affairs
of the Arab Republic of Egypt
Cairo

[1] See p. 3357.
[2] TIAS 7882, 8169, 8989; 25 UST 1474; 26 UST 2517; 29 UST 2934.

The Egyptian Deputy Prime Minister and Minister of Foreign Affairs to the American Ambassador

Ministry
of Foreign Affairs

Cairo, JUL 26 1981

Excellency:

I have the honour to acknowledge receipt of your Excellency's Note of July 26, 1981 which reads as follows:

"I have the honor to refer to recent discussions between our two Governments concerning the military, civilian and contractor personnel, and their dependents under the supervision of the Office of Military Cooperation of the American Embassy, who are responsible for administration of the Military Assistance Program in Egypt; and other United States military and civilian personnel, including the vessels, aircraft, equipment and other property required for their use, who may visit the Arab Republic of Egypt from time to time at the invitation of the Government of the Arab Republic of Egypt. In order to provide for the legal status of these personnel while in Egypt, I propose that pending the completion of a comprehensive agreement between our two Governments on the legal status of various categories of U.S. military personnel and accompanying civilian personnel in Egypt, they be accorded the same privileges, immunities and treatment as provided under the exchange of notes dated April 13 and 25, 1974, as amended, related to the clearance of mines and unexploded ordnance from the Suez Canal.

If the foregoing is acceptable to the Government of the Arab Republic of Egypt, I have the honor to propose that this note and your note in reply confirming acceptance will constitute an agreement between our respective Governments.

Accept, Excellency, the renewed assurances of my highest consideration."

In reply, I have the honour to inform you that the foregoing proposals are acceptable to the Government of Egypt and that your Note and the present reply shall constitute an agreement between our two Governments.

Accept, Excellency the renewed assurances of my highest consideration.

K. H. Ali [1]

His Excellency Ambassador Alfred Atherton
Ambassador Extraordinary
and Plenipotentiary
Embassy of the United States of America
Cairo

[1] K. H. Ali.

The American Ambassador to the Egyptian Deputy Prime Minister and Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

No. 1102 CAIRO, *July 26, 1981*

EXCELLENCY:

I have the honor to refer to recent discussions between our Governments regarding the status of members of the Armed Forces of the United States and persons serving with or employed by such forces while in the Arab Republic of Egypt, in connection with assistance and training programs, defense industrial cooperation, or such other matters as may from time to time be agreed, and to propose the following:

I. (A) Office of Military Cooperation:

The Office of Military Cooperation of the American Embassy (OMC) is responsible for administration of the military assistance program in Egypt. The Government of the United States of America and the Government of the Arab Republic of Egypt agree that the OMC will enjoy the same inviolability of premises as is extended to the Diplomatic Mission of the United States of America and that the Arab Republic of Egypt shall accord all United States Government employees, including military personnel, who are United States citizens and their families in Egypt in connection herewith the same immunity as is accorded by the Government of the Arab Republic of Egypt to the personnel of comparable rank of the Embassy of the United States of America in Egypt. These persons will be subject to the same obligations and responsibilities as apply to members of the Embassy of the United States of America.

(B) Any supplies, material, or equipment introduced into or acquired in the Arab Republic of Egypt by the Government of the United States of America, or any American contractor in connection with the activities referred to in this agreement, shall, while such supplies, material, or equipment are used in that connection, be exempt from any taxes in the Arab Republic of Egypt, and the import, export, purchase, use, or disposition of any such supplies, material, or equipment in connection with such activities shall be exempt from any tariffs, customs duties, import and export taxes, taxes on purchase or disposition of property, and other taxes or similar charges in the Arab Republic of Egypt. No tax (whether in the nature of an income, profit, business, or other tax), duty, or fee of whatsoever nature shall be imposed upon any American contractor financed by the

Government of the United States in connection with the activities referred to in this agreement.

(C) All United States citizen personnel (and their families), whether (I) employees of the Government of the United States of America or any agency thereof, (II) members of the United States Armed Forces, (III) individuals under contract with, or employees of public or private organizations under contract with the Government of the Arab Republic of Egypt, or any agency thereof, or (IV) individuals under contract with or financed by, or employees of public or private organizations under contract with or financed by, the Government of the United States of America, or any agency thereof, who are present in the Arab Republic of Egypt or perform work in connection with this agreement shall be exempt from income and social security taxes levied under the laws of the Arab Republic of Egypt and from taxes of the purchase, ownership, use or disposition of personal moveable property (including automobiles) intended for their own use. Such personnel (and their families) shall be exempt from customs, import, and export duties on all personal effects, equipment and supplies (including food, beverages, and tobacco), imported into the Arab Republic of Egypt for their own use, and from other duties and fees.

(D) Military, civilian and contractor personnel under the supervision of OMC, and their dependents will respect the laws, regulations, customs and traditions of the Arab Republic of Egypt. They will abstain from activity inconsistent with the spirit of this Agreement and the arrangements agreed upon for its application.

II. Special Missions:

Other United States military and civilian personnel, including the vessels, aircraft, equipment and other property required for their use, (herein referred to as "special missions") may visit the Arab Republic of Egypt from time to time at the invitation of the Government of the Arab Republic of Egypt. Agreements between the competent authorities of the two governments will establish, inter alia, the duration of the missions, the number of their members, and other technical details.

(A) Identification of Members of the Special Missions:

The term "members of the special missions" means members of the United States Armed Forces, and persons serving with or employed by the said armed forces, including technicians and contractor personnel while in the Arab Republic of Egypt in connection with the activities referred to in this Agreement.

It does not include Egyptian individuals serving with or employed by the special missions. In addition to their United States identification cards, all members of the special missions shall be furnished with appropriate identification cards issued by Egyptian competent authorities. Such cards should be produced upon demand to the authorities of the Arab Republic of Egypt.

(B) Safety of the Special Missions:

The Government of the Arab Republic of Egypt shall spare no effort, as far as possible, in providing assistance for the safety of the members of the special missions in carrying out their activities mentioned in this Agreement. This assistance will be provided in conformity with the laws and regulations issued by the Egyptian authorities. Premises of the special missions shall be inviolable.

(C) Claims:

1) The Governments of the Arab Republic of Egypt and of the United States of America waive any and all claims against each other for damage to property, or for death or injury to any member of either party in the course of his activities mentioned in this Agreement or by any other act or omission for which either of the parties is legally responsible.

2) Claims, other than contractual claims and those waived by the Arab Republic of Egypt, arising out of acts or omissions of a member of the special missions done in the performance of his official duty, or out of any other act, omission or occurrence for which the special missions or the U.S. Government is legally responsible, will be dealt with by the Egyptian Government and in all cases settled at the cost of the Arab Republic of Egypt.

3) Claims in respect of acts or omissions of a member of the special missions arising otherwise than out of or in the course of his duty in Egypt may at the discretion of the United States service authorities be dealt with and settled by such authorities.

(D) Freedom of Movement, Entry and Departure:

1) In order to facilitate the fulfillment of their official activities, members of the special missions will be allowed freedom of movement within the Arab Republic of Egypt, other than areas the Government of the Arab Republic of Egypt may designate as restricted areas.

2) Members of the special missions may wear the uniform and insignias of the U.S. Armed Forces when within zones of their activities. Outside these zones, they will wear civilian clothes.

3) Members of the special missions will be allowed freedom of entry to and egress from the Arab Republic of Egypt in accordance with arrangements to be agreed upon with the Egyptian competent authorities.

4) Subject to prior authorization vessels and aircraft assigned to or supporting the special missions may freely enter territorial waters, airspace, ports, and airfields of the Arab Republic of Egypt without payment of fees or charges. Reasonable notification shall be given prior to departure of vessels assigned to or supporting the special missions from ports and Egyptian territorial waters.

(E) Respect of Laws and Traditions:

1) Members of the special missions will respect laws, regulations, customs and traditions of the Arab Republic of Egypt. They will abstain from activity inconsistent with the spirit of this Agreement and the arrangements agreed upon for its application.

2) The Government of the United States shall take necessary measures to that end.

3) The Government of the United States will respond to requests of the Government of the Arab Republic of Egypt for the withdrawal of any members of the special missions in case of violation of Egyptian laws, regulations, customs and traditions.

(F) Criminal Jurisdiction:

1) Subject to the provisions of this paragraph:

A. The military authorities of the United States shall have the right to exercise within Egypt all criminal and disciplinary jurisdiction conferred on them by United States law over all members of the special missions subject to the military law of the United States; and

B. The authorities of Egypt shall have jurisdiction over the members of the special missions with respect to offenses committed within Egypt and punishable by the law of Egypt.

2) A. The military authorities of the United States shall have the exclusive right to exercise jurisdiction

over members of the special missions with respect to offenses, including offenses relating to security, punishable under the military law of the United States but not under the law of Egypt.

B. The authorities of Egypt shall have the exclusive right to exercise jurisdiction over members of the special missions with respect to offenses, including offenses relating to security, punishable under the law of Egypt but not under the military law of the United States.

C. For the purposes of paragraphs 2 and 3 an offense relating to security means:

(I) Treason; and

(II) Sabotage, espionage or violation of any law relating to official secrets or secrets relating to national defense.

3) In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply;

A. The military authorities of the United States shall have the primary right to exercise jurisdiction over members of the special missions in relation to

(I) Offenses solely against the property or security of the United States or offenses solely against the person or property of other United States personnel.

(II) Offenses arising out of any act or omission done in the performance of official duty.

B. In the case of any other offense, the authorities of Egypt shall have the primary right to exercise jurisdiction.

C. The authorities of either government may request the authorities of the other government to waive its primary right to exercise jurisdiction in a particular case. Recognizing that effective discipline requires prompt action by US military commanders to dispose of offenses charged against members of the special missions, the Government of Egypt agrees not to exercise its jurisdiction under subparagraph B above, except in cases where it determines, and notifies the United States authorities within seven days of the discovery of an alleged offense, that it is of particular importance that such jurisdiction be exercised.

4) A. To the extent authorized by law, the authorities of Egypt and the military authorities of the United States shall assist each other in the service of process

and in the arrest of members of the special missions in Egypt and in handing them over to the authorities which are to exercise jurisdiction in accordance with the provisions of this agreement.

B. The authorities of Egypt shall notify promptly the military authorities of the United States of the arrest of any member of the special missions.

C. The custody of an accused member of the special missions over whom the authorities of Egypt are to exercise jurisdiction shall reside with the United States authorities, pending the completion of judicial proceedings. The United States authorities shall, upon request, make such a person available to the authorities of Egypt for purposes of investigation and trial.

5) A. To the extent authorized by law, the authorities of the United States and of Egypt shall assist each other in the carrying out of all necessary investigations into offenses, in providing for the attendance of witnesses and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense.

B. The authorities of the United States and of Egypt shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

6) Where an accused has been tried in accordance with the provisions of this article and has been acquitted or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offense within Egypt. Nothing in this paragraph shall, however, prevent the military authorities of the United States from trying a military member of the special missions for any violation or rules of discipline arising from an act or omission which constituted an offense for which he was tried by the authorities of Egypt.

7) A member of the special missions prosecuted by the Egyptian authorities shall be entitled to the most favorable application of the following procedural safeguards common to both the US and Egyptian legal systems: The right to a prompt and speedy trial; to be informed in advance of trial of the specific charge or charges made against him; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor if they are within the

jurisdiction of Egypt; to have legal representation of his own choice for his defense, or to have free or assisted legal representation under the conditions prevailing in Egypt; if he considers it necessary, to have the services of a competent interpreter; and to communicate with a representative of the United States and to have such a representative present at his trial, which shall be public except when the Court decrees otherwise in accordance with the law of Egypt.

8) A certificate of the appropriate United States commanding officer that an offense arose out of an act or omission done in the performance of official duty shall be conclusive, but the commanding officer shall give consideration to any representation made by the Government of Egypt.

9) A. The military police of the special mission may take all appropriate measures over US personnel to ensure the maintenance of order and security on Egyptian military facilities to which such personnel have been granted access.

B. Outside such facilities, such military police shall be employed only subject to arrangements with the appropriate Egyptian authorities, and insofar as such employment is necessary to maintain order and discipline among members of the special mission.

10) Members of the special missions shall be immune from the jurisdiction of Egyptian military courts.

(G) Immunity from Civil and Administrative Jurisdiction:

Members of the special missions shall be immune from the Civil and Administrative Jurisdiction of Egyptian courts and authorities in matters related to the carrying out of their official activities unless in a particular case the Government of the United States waives such immunity. Notwithstanding this immunity, claims shall be settled in accordance with paragraph II (C) of this Agreement.

(H) Exemption of Taxation:

The special missions and their members and property belonging to either, shall be exempt from all forms of taxation, customs, and other regulations except as may be agreed between the parties pursuant to paragraph II (I).

(I) Supplementary Arrangements:

Supplementary arrangements between the appropriate authorities of the two governments may be entered into as required to carry out the purpose of this Agreement.

If the foregoing is acceptable to the Government of the Arab Republic of Egypt, I have the honor to propose that this Note and your Note in reply confirming acceptance will constitute an Agreement between our respective Governments which shall enter into force upon exchange of instruments of acceptance by both parties. This Agreement may be modified by agreement in writing of the parties. It shall remain in force until ninety days after the receipt by either Government of written notification of the intention of the other to terminate it.

Accept, Excellency, the assurances of my highest consideration.

ALFRED L ATHERTON JR.

His Excellency
GENERAL KAMAL HASSAN ALI
Deputy Prime Minister and
Minister of Foreign Affairs
of the Arab Republic of Egypt
Cairo

The American Ambassador to the Egyptian Deputy Prime Minister and Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

CAIRO, EGYPT

July 26, 1981

DEAR MR. MINISTER:

The purpose of this letter is to confirm that Egyptian military personnel on duty in the United States receive customs and tax privileges similar to those we are seeking for U.S. Special Missions in Egypt. Under U.S. law, members of the armed forces of a foreign country are granted duty-free entry of their baggage and effects and other articles entered for their personal or family use. No specific limitations are placed on particular items imported. The only limitation is that the items are to be for the personal or family use of the member and are not to be imported as an accommodation to others or for sale or commercial use. The duty-free privileges are accorded only if reciprocal privileges are granted by the foreign government concerned to U.S. military personnel. U.S. law also exempts from U.S. income tax, on a reciprocal basis, the salary or other compensation received by foreign military personnel from their governments.

Please accept assurances of my highest esteem.

Sincerely,

ALFRED L. ATHERTON JR.

Alfred L. Atherton, Jr.
American Ambassador

His Excellency
GENERAL KAMAL HASSAN ALI
Deputy Prime Minister and
Minister of Foreign Affairs
of the Arab Republic of Egypt
Cairo

The Egyptian Deputy Prime Minister and Minister of Foreign Affairs to the American Ambassador

Ministry
of Foreign Affairs

Cairo, JUL 26 1981

Excellency:

I have the honor to acknowledge receipt of your Excellency's Note of July 26, 1981 which reads as follows:

"Excellency:

I have the honor to refer to recent discussions between our Governments regarding the status of members of the Armed Forces of the United States and persons serving with or employed by such forces while in the Arab Republic of Egypt, in connection with assistance and training programs, defense industrial cooperation, or such other matters as may from time to time be agreed, and to propose the following:

I. (A) Office of Military Cooperation: The Office of Military Cooperation of the American Embassy (OMC) is responsible for administration of the military assistance program in Egypt. The Government of the United States of America and the Government of the Arab Republic of Egypt agree that the OMC will enjoy the same inviolability of premises as is extended to the Diplomatic Mission

of the United States of America and that the Arab Republic of Egypt shall accord all United States Government employees, including military personnel, who are United States citizens and their families in Egypt in connection herewith the same immunity as is accorded by the Government of the Arab Republic of Egypt to the personnel of comparable rank of the Embassy of the United States of America in Egypt. These persons will be subject to the same obligations and responsibilities as apply to members of the Embassy of the United States of America.

(B) Any supplies, material, or equipment introduced into or acquired in the Arab Republic of Egypt by the Government of the United States of America, or any American contractor in connection with the activities referred to in this agreement, shall, while such supplies, material, or equipment are used in that connection, be exempt from any taxes in the Arab Republic of Egypt, and the import, export, purchase, use, or disposition of any such supplies, material, or equipment in connection

with such activities shall be exempt from any tariffs, customs duties, import and export taxes, taxes on purchase or disposition of property, and other taxes or similar charges in the Arab Republic of Egypt. No tax (whether in the nature of an income, profit, business, or other tax), duty, or fee of whatsoever nature shall be imposed upon any American contractor financed by the Government of the United States in connection with the activities referred to in this agreement.

(C) All United States citizen personnel (and their families), whether (I) employees of the Government of the United States of America or any agency thereof, (II) members of the United States Armed Forces, (III) individuals under contract with, or employees of public or private organizations under contract with the Government of the Arab Republic of Egypt, or any agency thereof, or (IV) individuals under contract with or financed by, or employees of public or private organizations under contract with or financed by, the Government of the United States of America, or any agency thereof, who are present in the Arab Republic of

Egypt or perform work in connection with this agreement shall be exempt from income and social security taxes levied under the laws of the Arab Republic of Egypt and from taxes of the purchase, ownership, use or disposition of personal moveable property (including automobiles) intended for their own use. Such personnel (and their families shall be exempt from customs, import, and export duties on all personal effects, equipment and supplies (including food, beverages, and tobacco), imported into the Arab Republic of Egypt for their own use, and from other duties and fees.

(D) Military, civilian and contractor personnel under the supervision of OMC, and their dependents will respect the laws, regulations, customs and traditions of the Arab Republic of Egypt. They will abstain from activity inconsistent with the spirit of this Agreement and the arrangements agreed upon for its application.

II. Special Missions:

Other United States military and civilian personnel, including the vessels, aircraft, equipment and other property required for their use, (herein referred to as "special missions") may visit the Arab Republic of Egypt from time to time at the

invitation of the Government of the Arab Republic of Egypt. Agreements between the competent authorities of the two governments will establish, inter alia, the duration of the missions, the number of their members, and other technical details.

(A) Identification of members of the special missions:

The term "members of the special missions" means members of the United States Armed Forces, and persons serving with or employed by the said armed forces, including technicians and contractor personnel while in the Arab Republic of Egypt in connection with the activities referred to in this Agreement. It does not include Egyptian individuals serving with or employed by the special missions. In addition to their United States identification cards, all members of the special missions shall be furnished with appropriate identification cards issued by Egyptian competent authorities. Such cards should be produced upon demand to the authorities of the Arab Republic of Egypt.

(B) Safety of the Special Missions:

The Government of the Arab Republic of Egypt shall spare no effort, as far as possible, in providing assistance for

the safety of the members of the special missions in carrying out their activities mentioned in this Agreement. This assistance will be provided in conformity with the laws and regulations issued by the Egyptian authorities. Premises of the special missions shall be inviolable.

(C) Claims:

1) The Governments of the Arab Republic of Egypt and of the United States of America waive any and all claims against each other for damage to property, or for death or injury to any member of either party in the course of his activities mentioned in this Agreement or by any other act or omission for which either of the parties is legally responsible.

2) Claims, other than contractual claims and those waived by the Arab Republic of Egypt, arising out of acts or omissions of a member of the special missions done in the performance of his official duty, or out of any other act, omission or occurrence for which the special missions or the U.S. Government is legally responsible, will be dealt with by the Egyptian Government and

in all cases settled at the cost of the Arab Republic of Egypt.

3) Claims in respect of acts or omissions of a member of the special missions arising otherwise than out of or in the course of his duty in Egypt may at the discretion of the United States service authorities be dealt with and settled by such authorities.

(D) Freedom of Movement, Entry and Departure:

1) In order to facilitate the fulfillment of their official activities, members of the special missions will be allowed freedom of movement within the Arab Republic of Egypt, other than areas the Government of the Arab Republic of Egypt may designate as restricted areas.

2) Members of the special missions may wear the uniform and insignias of the U.S. Armed Forces when within zones of their activities. Outside these zones, they will wear civilian clothes.

3) Members of the special missions will be allowed freedom of entry to and egress from the Arab Republic of Egypt in accordance with arrangements to be agreed upon with the

Egyptian competent authorities.

4) Subject to prior authorization, vessels and aircraft assigned to or supporting the special missions may freely enter territorial waters, airspace, ports, and airfields of the Arab Republic of Egypt without payment of fees or charges. Reasonable notification shall be given prior to departure of vessels assigned to or supporting the special missions from ports and Egyptian territorial waters.

(E) Respect of Laws and Traditions:

1) Members of the special missions will respect laws, regulations, customs and traditions of the Arab Republic of Egypt. They will abstain from activity inconsistent with the spirit of this Agreement and the arrangements agreed upon for its application.

2) The Government of the United States shall take necessary measures to that end.

3) The Government of the United States will respond to requests of the Government of the Arab Republic of Egypt for the withdrawal of any members of the special

missions in case of violation of Egyptian laws, regulations, customs and traditions.

(F) Criminal Jurisdiction:

1) Subject to the provisions of this paragraph:

A. The military authorities of the United States shall have the right to exercise within Egypt all criminal and disciplinary jurisdiction conferred on them by United States law over all members of the special missions subject to the military law of the United States; and

B. The authorities of Egypt shall have jurisdiction over the members of the special missions with respect to offenses committed within Egypt and punishable by the law of Egypt.

2) A. The military authorities of the United States shall have the exclusive right to exercise jurisdiction over members of the special missions with respect to offenses, including offenses relating to security, punishable under the military law of the United States but not under the law of Egypt.

B. The authorities of Egypt shall have the exclusive right to exercise jurisdiction over members of the special missions with respect to offenses,

including offenses relating to security, punishable under the law of Egypt but not under the military law of the United States.

C. For the purposes of paragraphs 2 and 3 an offense relating to security means:

(I) Treason; and

(II) Sabotage, espionage or violation of any law relating to official secrets or secrets relating to national defense.

3) In cases where the right to exercise jurisdiction is concurrent, the following rules shall apply:

A. The military authorities of the United States shall have the primary right to exercise jurisdiction over members of the special missions in relation to

(I) Offenses solely against the property or security of the United States or offenses solely against the person or property of other United States personnel.

(II) Offenses arising out of any act or omission done in the performance of official duty.

B. In the case of any other offense, the authorities of Egypt shall have the primary right to exercise jurisdiction.

C. The authorities of either government may request the authorities of the other government to waive its primary right to exercise jurisdiction in a particular case. Recognizing that effective discipline requires prompt action by US military commanders to dispose of offenses charged against members of the special missions, the Government of Egypt agrees not to exercise its jurisdiction under subparagraph B above, except in cases where it determines, and notifies the United States authorities within seven days of the discovery of an alleged offense, that it is of particular importance that such jurisdiction be exercised.

4) A. To the extent authorized by law, the authorities of Egypt and the military authorities of the United States shall assist each other in the service of process and in the arrest of members of the special missions in Egypt and in handing them over to the authorities which are to exercise jurisdiction in accordance with the provisions of this agreement.

B. The authorities of Egypt shall notify promptly the military authorities of the United States of the arrest of any member of the special missions.

C. The custody of an accused member of the special missions over whom the authorities of Egypt are to exercise jurisdiction shall reside with the United States authorities, pending the completion of judicial proceedings. The United States authorities shall, upon request, make such a person available to the authorities of Egypt for purposes of investigation and trial.

5) A. To the extent authorized by law, the authorities of the United States and of Egypt shall assist each other in the carrying out of all necessary investigation into offenses, in providing for the attendance of witnesses and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense.

B. The authorities of the United States and of Egypt shall notify one another of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

6) Where an accused has been tried in accordance with the provisions of this article and has been acquitted or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offense within Egypt. Nothing in this

paragraph shall, however, prevent the military authorities of the United States from trying a military member of the special missions for any violation or rules of discipline arising from an act or ommission which constituted an offense for which he was tried by the authorities of Egypt.

7) A member of the special missions prosecuted by the Egyptian authorities shall be entitled to the most favorable application of the following procedural safeguards common to both the US and Egyptian legal systems:

The right to a prompt and speedy trial; to be informed in advance of trial of the specific charge or charges made against him; to be confronted with witnesses against him; to have compulsory process for obtaining witnesses in his favor if they are within the jurisdiction of Egypt; to have legal representation of his own choice for his defense, or to have free or assisted legal representation under the conditions prevailing in Egypt; if he considers it necessary, to have the services of a competent interpreter; and to communicate with a representative of the United States and to have such a representative present at his trial, which shall be

public except when the Court decrees otherwise in accordance with the law of Egypt.

8) A certificate of the appropriate United States commanding officer that an offense arose out of an act or omission done in the performance of official duty shall be conclusive, but the commanding officer shall give consideration to any representation made by the Government of Egypt.

9) A. The military police of the special mission may take all appropriate measures over US personnel to ensure the maintenance of order and security on Egyptian military facilities to which such personnel have been granted access.

B. Outside such facilities, such military police shall be employed only subject to arrangements with the appropriate Egyptian authorities, and insofar as such employment is necessary to maintain order and discipline among members of the special mission.

10) Members of the special missions shall be immune from the jurisdiction of Egyptian military courts.

(G) Immunity from Civil and Administrative Jurisdiction:

Members of the special missions shall be immune from the Civil and Administrative Jurisdiction of Egyptian courts and authorities in matters related to the carrying out of their

official activities, unless in a particular case the Government of the United States waives such immunity. Notwithstanding this immunity, claims shall be settled in accordance with paragraph II (C) of this Agreement.

(H) Exemption from Taxation:
The special missions and their members and property belonging to either, shall be exempt from all forms of taxation, customs, and other regulations except as may be agreed between the parties pursuant to paragraph II (I).

(I) Supplementary Arrangements:
Supplementary arrangements between the appropriate authorities of the two governments may be entered into as required to carry out the purposes of this Agreement.

If the foregoing is acceptable to the Government of the Arab Republic of Egypt, I have the honor to propose that this Note and your Note in reply confirming acceptance will constitute an Agreement between our respective Governments which shall enter into force upon exchange of instruments of acceptance by both parties. This Agreement may be modified by agreement in writing of the parties. It shall remain in force until ninety days after the receipt by either Government of written

notification of the intention of the other to terminate it.

Accept, Excellency, the assurances of my highest consideration."

In reply, I have the honor to inform you that the foregoing proposals are acceptable to the Government of the Arab Republic of Egypt and that your note and this reply constitute an agreement between our two Governments which shall enter into force upon exchange of instruments of acceptance by both parties.

Further, I also have the honor to take note of your letter of July 26, 1981 which reads as follows:

"The purpose of this letter is to confirm that Egyptian military personnel on duty in the United States receive customs and tax privileges similar to those we are seeking for U.S. Special Missions in Egypt. Under U.S. law, members of the armed forces of a foreign country are granted duty-free entry of their baggage and effects and other articles entered for their personal or family use. No specific limitations are placed on particular items imported. The only limitation is that the items are to be for the personal or family use of the member and are not to be imported as an accommodation to others or for sale or commercial use. The duty-free privileges are accorded only if reciprocal privileges are granted by the foreign government concerned to U.S. military personnel. U.S. law also exempts from U.S. income tax,

on a reciprocal basis, the salary or other compensation received by foreign military personnel from their governments."

Accept, Excellency, the renewed assurances of my highest consideration.

K. H. Ali

Kamal Hassan Ali
Deputy Prime Minister and
Minister of Foreign Affairs

His Excellency Ambassador Alfred Atherton
Ambassador Extraordinary
and Plenipotentiary
To the Embassy of the United States of America

Agreed Minute on Interpretation of Paragraph II (H)
of the Exchange of Notes on Privileges and
Immunities for U.S. Military Personnel

It is understood that the Arab Republic of Egypt shall extend the exemptions referred to in this Paragraph to the members of all Special Missions when the Special Missions have been specifically approved by the Arab Republic of Egypt.

It is further understood that the exemptions shall extend to the following:

a. Income and social security taxes and similar taxes on their salaries, pay and emoluments paid by the Government of the United States;

b. Taxes or similar charges on the purchase, ownership, use, or disposition of personal property intended for their own use;

c. Customs, import and export duties on all personal effects, equipment and supplies imported into the Arab Republic of Egypt for their own use, and other similar duties and fees.

It is further understood that the exemption from taxes regarding the purchase, use, import, export and disposition of personal effects and other property shall not obtain with respect to such personal effects and property which are sold, transferred, or otherwise disposed of to persons not entitled to exemption from the applicable taxes and duties, nor with respect to

any taxes applicable to personal purchases of goods and services in the Egyptian market by members of the Special Missions. Further, the granting of these exemptions to members of the Special Missions is on the understanding that Egyptian military personnel on duty in the United States are accorded comparable exemptions by the United States Government.

Arab Republic of Egypt

Kamal Hassan Ali
Deputy Prime Minister and
Minister of Foreign Affairs

United States of America

Alfred L. Atherton, Jr.
American Ambassador

SENEGAL

Agricultural Commodities

Agreement signed at Dakar May 16, 1980;
Entered into force May 16, 1980.
With memorandum of understanding.
And amending agreement
Effected by exchange of notes
Signed at Dakar December 23, 1980;
Entered into force December 23, 1980.

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE REPUBLIC OF SENEGAL

FOR

SALES OF AGRICULTURAL COMMODITIES

PL-480 TITLE III

ACCORD

ENTRE

LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE

ET

LE GOUVERNEMENT DE LA REPUBLIQUE DU SENEGAL

POUR

LA VENTE DE DENREES AGRICOLES

PL-480 TITRE III

Dated : May 16, 1980

En date du: 16 mai 1980

ACCORD TITRE III

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ACCORD

ENTRE

LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE

ET

LE GOUVERNEMENT DE LA REPUBLIQUE DU SENEGAL

POUR

LA VENTE DE DENREES AGRICOLES, CONSTITUANT UN ACCORD DE PROGRAMME ALIMENTAIRE POUR LE DEVELOPPEMENT (TITRE III) DE LA LOI PUBLIQUE 480, COMPRENANT LE PREAMBULE, LES PARTIES I ET II, ET III, AVEC ANNEXE A ET ANNEXE B.

PREAMBULE

Le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République du Sénégal,

Reconnaissant qu'il est souhaitable de développer le commerce des produits agricoles entre les Etats-Unis d'Amérique (ci-après dénommés "le pays exportateur") et la République du Sénégal (ci-après dénommée "le pays importateur") et d'autres nations amies, d'une manière telle que le développement ne risque pas de porter préjudice aux marché habituels du pays exportateur pour ces produits, ou d'affecter indûment les prix mondiaux de ces produits agricoles, ou d'entraver les pratiques commerciales d'usage établies avec les pays amis;

Tenant compte de l'importance que revêt pour les pays en voie de développement le fait de s'efforcer de s'aider eux-mêmes en vue de parvenir à un plus haut degré d'indépendance, particulièrement en s'efforçant de faire face eux-mêmes aux problèmes que posent la production alimentaire et l'accroissement démographique;

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE REPUBLIC OF SENEGAL

FOR

SALES OF AGRICULTURAL COMMODITIES, CONSTITUTING A PUBLIC LAW 480 FOOD FOR DEVELOPMENT (TITLE III) PROGRAM AGREEMENT, CONSISTING OF THE PREAMBLE, PARTS I AND II, AND III TOGETHER WITH ANNEX A AND ANNEX B.

PREAMBLE

The Government of the United States of America and the Government of the Repulic of Senegal,

Recognizing the desirability of expanding trade in agricultural commodities between the United States of America (hereinafter referred to as the exporting country) and the Republic of Senegal (hereinafter referred to as the importing country) and with other friendly countries in a manner that will not displace usual marketing of the exporting country in these commodities or unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries;

Taking into account the importance to developping countries of their efforts to help themselves toward a greater degree of self-reliance, including efforts to meet their problems of food production and population growth;

Reconnaissant la politique du pays exportateur qui consiste à mettre sa productivité agricole au service de la lutte contre la faim et la sous-alimentation dans les pays en voie de développement, à encourager ces pays à relever leur propre production agricole et à les aider dans leur développement économique;

Reconnaissant la volonté du pays importateur d'améliorer sa propre production, ses installations d'entreposage et la distribution de ses denrées alimentaires agricoles, y compris la réduction des pertes à tous les stades de manutention des denrées;

Désirant préciser les conventions qui régiront les ventes de produits agricoles au pays importateur en vertu du Titre I et de la Loi sur le développement des échanges commerciaux et de l'aide en produits agricoles, telle que modifiée (ci-après dénommée "la Loi"), et les dispositions que les deux Gouvernements prendront individuellement et conjointement en vue de favoriser l'application des politiques mentionnées ci-dessus;

Sont convenus de ce qui suit:

1ère Partie - Dispositions Générales

ARTICLE I

A. Le Gouvernement du pays exportateur s'engage à financer la vente de produits agricoles à des acheteurs autorisés par le Gouvernement du pays importateur conformément aux termes et conditions énoncés dans le présent accord.

B. Le financement de la vente des produits agricoles énumérés dans la IIème partie du présent accord sera subordonné à:

Recognizing the policy of the exporting country to use its agricultural productivity to combat hunger and malnutrition in the developing countries, to encourage these countries to improve their own agricultural production, and to assist them in their economic development;

Recognizing the determination of the importing country to improve its own production, storage, and distribution of agricultural food products, including the reduction of waste in all stages of food handling;

Desiring to set forth the understandings that will govern the sales of agricultural commodities to the importing country pursuant to Title I of the Agricultural Trade Development and Assistant Act, as amended (hereinafter referred to as the Act), and the measures that the two Governments will take individually and collectively in furthering the above-mentioned policies;

Have agreed as follows:

Part I - General Provisions

ARTICLE I

A. The Government of the exporting country undertakes to finance the sale of agricultural commodities to purchases authorized by the Government of the importing country in accordance with the terms and conditions set forth in this agreement.

B. The financing of the agricultural commodities listed in Part II of this agreement will be subject to:

[1] 68 Stat. 455; 7 U.S.C. § 1701 *et seq.* [Footnote added by the Department of State.]

1. la délivrance par le Gouvernement du pays exportateur d'autorisations d'achat et l'acceptation de ces autorisations par le Gouvernement du pays importateur;

2. La disponibilité des produits visés, à la date prévue pour leur exportation.

C. Les demandes d'autorisations d'achat devront être faites dans un délai de 90 jours à compter de la date d'entrée en vigueur du présent accord et, en ce qui concerne tous autres produits ou toutes quantités supplémentaires, dans un délai de 90 jours à compter de la date d'entrée en vigueur dudit accord supplémentaire. Les autorisations d'achat comporteront des dispositions relatives à la vente et à la livraison des produits visés et toutes autres dispositions pertinentes.

D. Sous réserve d'autorisations spéciales du Gouvernement du pays exportateur, les livraisons des produits vendus aux termes du présent accord seront effectuées au cours des périodes d'offre fixées au tableau des produits figurant dans la IIème Partie du présent accord.

E. La valeur de la quantité totale de chaque produit faisant l'objet des autorisations d'achat selon un mode particulier de financement, autorisé aux termes du présent accord, ne devra pas dépasser la valeur marchande maximum d'exportation stipulée quant à ce produit et à ce mode de financement dans la IIème Partie du présent accord. Le Gouvernement du pays exportateur pour fixer la valeur totale de chaque produit couvert par des autorisations d'achat et devant faire l'objet d'un mode particulier

1. The issuance by the Government of the exporting country of purchase authorizations and their acceptance by the Government of the importing country; and

2. The availability of the specified commodities at the time of exportation.

C. Application for purchase authorizations will be made within 90 days after the effective date of this agreement, and, with respect to any additional commodities or amounts of commodities provided for in any supplementary agreement, within 90 days after the effective date of such supplementary agreement. Purchase authorizations shall include provisions relating to the sale and delivery of such commodities, and other relevant matters.

D. Except as may be authorized by the Government of the exporting country, all deliveries of commodities sold under this agreement shall be made within the supply periods specified in the commodity table in Part II.

E. The value of the total quantity of each commodity covered by the purchase authorizations for a specified type of financing authorized under this agreement shall not exceed the maximum export market value specified for that commodity and type of financing in Part II. The Government of the exporting country may limit the total value of each commodity to be covered by purchase authorizations for a specified type of financing as price declines or other marketing factors may require, so that the quantities of such commodity sold under a

de financement suivant que baisse le prix de ce produit ou que d'autres facteurs de marché le nécessitent, de sorte que les quantités d'un tel produit, vendues conformément à un mode stipulé de financement ne dépassent pas sensiblement la quantité maximum approximative applicable stipulée dans la IIème Partie du présent accord.

specified type of financing will not substantially exceed the applicable approximate maximum quantity specified in Part II.

F. Le Gouvernement du pays exportateur prendra à sa charge le fret différentiel afférent aux produits dont le transport à bord de navires battant pavillon des Etats-Unis sera exigé par le Gouvernement du pays exportateur (soit environ 50 pour cent du tonnage des produits vendus aux termes du présent accord). Le fret différentiel sera réputé être égal à la différence, telle qu'elle aura été déterminée par le Gouvernement du pays exportateur, entre les frais de transport maritime encourus (plus élevés qu'ils ne l'auraient été autrement) et ceux résultant de l'obligation d'utiliser des navires battant pavillon des Etats-Unis pour le transport des produits en question. Le Gouvernement du pays importateur ne sera pas dans l'obligation de rembourser au Gouvernement du pays exportateur le fret différentiel financé par le Gouvernement du pays exportateur.

F. The Government of the exporting country shall bear the ocean freight differential for commodities the Government of the exporting country requires to be transported in United States flag vessels (approximately 50 percent by weight of the commodities sold under the agreement). The ocean freight differential is deemed to be the amount, as determined by the Government of the exporting country, by which the cost of ocean transportation is higher (than would otherwise be the case) by reason of the requirement that the commodities be transported in United States flag vessels. The Government of the importing country shall have no obligation to reimburse the Government of the exporting country for the ocean freight differentiel borne by the Government of the exporting country.

G. Dès que possible après que l'espace nécessaire à bord de navires battant pavillon des Etats-Unis aura été réservé par voie de contrat en vue de l'expédition des produits dont le transport à bord de navires battant pavillon des Etats-Unis est obligatoire, et au plus tard à la date à laquelle les navires arriveront au port de chargement, le Gouvernement du pays importateur ou les acheteurs autorisés par lui ouvriront une lettre de crédit, en dollars des Etats-Unis, d'un montant égal au coût estimatif du transport maritime desdits produits.

G. Promptly after contracting for United States flag shipping space to be used for commodities required to be transported in United States flag vessels, and in any event not later than presentation of vessel for loading, the Government of the importing country or the purchasers authorized by it shall open a letter of credit, in United States dollars, for the estimated cost of ocean transportation for such commodities.

H. L'un ou l'autre Gouvernement pourra mettre fin au financement, à la vente et à la livraison des produits en vertu du présent accord, s'il juge qu'en raison de changement de conditions, il est inutile ou inopportun de continuer de financer, de vendre ou de livrer lesdits produits.

ARTICLE II

A. Paiement Initial

Le Gouvernement du pays importateur effectuera ou fera en sorte que soit effectué tout paiement initial stipulé dans la IIème Partie du présent accord. Le montant de ce paiement représentera la proportion du prix d'achat (exclusion faite de tous frais de transport maritime qui pourraient y figurer) égale au pourcentage stipulé à titre de paiement initial dans la IIème Partie et ledit paiement sera effectué en dollars des Etats-Unis, conformément aux dispositions de l'autorisation d'achat applicable.

B. Paiement utilisant la monnaie locale

Le Gouvernement du pays importateur effectuera ou fera en sorte que soit effectué, à la demande du Gouvernement du pays exportateur et à raison de montants stipulés par lui, mais en aucun cas dans un délai de plus d'un an après le dernier décaissement fait par la Commodity Credit Corporation au titre du présent accord, ou au terme du délai d'approvisionnement, au dernier échu de ces termes, tout paiement qui pourrait être stipulé dans la IIème Partie du présent accord en vertu de la Section 103 (b) de ladite Loi (clause ci-après dite du "Paiement utilisant la monnaie locale"). Le paiement utilisant la monnaie locale représentera la partie du montant financée par le pays exportateur et

H. The financing, sale, and delivery of commodities under this agreement may be terminated by either Government if that Government determines that because of changed conditions the continuation of such financing, sale, or delivery is unnecessary or undesirable.

ARTICLE II

A. Initial Payment

The Government of the importing country shall pay, or cause to be paid, such initial payment as may be specified in Part II of this agreement. The amount of this payment shall be that portion of the purchase price (excluding any ocean transportation costs that may be included therein) equal to the percentage specified for initial payment in Part II and payment shall be made in United States dollars in accordance with the applicable purchase authorization.

B. Currency Use Payment

The Government of the importing country shall pay, or cause to be paid, upon demand by the Government of the exporting country in amounts as it may determine, but in any event no later than one year after the final disbursement by the Commodity Credit Corporation under this agreement, or the end of the supply period, whichever is later, such payment as may be specified in Part II of this agreement pursuant to Section 103 (b) of the Act (hereinafter referred to as the Currency Use Payment). The currency use payment shall be that portion of the amount financed by the exporting country equal to the percentage specified for currency use payment in Part II. Payment shall be made

égale au pourcentage spécifié relativement au paiement utilisant la monnaie locale dans la IIème Partie. Le paiement devra être effectué conformément au paragraphe H' et dans les buts spécifiés à la Sous-section 104 (a), (b), (e) et (h) de la Loi, dont l'énoncé figure dans la IIème Partie du présent accord. Ledit paiement devra être imputé a) au montant du paiement de chaque année en règlement des intérêts, dû durant la période précédant la date d'échéance du paiement de la première tranche, à compter de la première année, et b) au total du paiement en remboursement du principal et du paiement des intérêts, à compter du paiement de la première tranche, jusqu'à compensation de la valeur du paiement utilisant la monnaie locale. Sauf stipulation contraire dans la IIème Partie, aucune demande de paiement ne sera faite par le Gouvernement du pays exportateur antérieurement au premier décaissement effectué par la Commodity Credit Corporation du pays exportateur, suivant le présent accord.

in accordance with paragraph H and for purposes specified in Subsection 104 (a), (b), (e) and (h) of the act, as set forth in Part II of this agreement. Such payment shall be credited against (a) the amount of each year's interest payment due during the period prior to the due date of the first installment payment, starting with the first year, plus (b) the combined payments of principal and interest starting with the first installment payment, until the value of the currency use payment has been offset. Unless otherwise specified in Part II, no requests for payment will be made by the Government of the exporting country prior to the first disbursement by the Commodity Credit Corporation of the exporting country under this agreement.

C. Mode de financement

La vente des produits visés dans la IIème Partie sera financée selon le mode de financement indiqué dans ladite Partie. En outre, des dispositions spéciales relatives à ladite vente sont également énoncées dans la IIème Partie.

C. Type of financing

Sales of the commodities specified in Part II shall be financed in accordance with the type of financing indicated therein. Special provisions relating to the sale are also set forth in Part II.

D. Dispositions relatives au crédit

1. En ce qui concerne les produits livrés au cours de chaque année civile aux termes du présent accord, le principal du crédit (ci-après dénommé "le principal") comprendra le montant en dollars décaissé par le Gouvernement du pays exportateur pour les produits (frais de transport maritime non compris) moins toute fraction du paiement initial payable au Gouvernement du pays exportateur.

D. Credit Provisions

1. With respect to commodities delivered in each calendar year under this agreement, the principal of the credit (hereinafter referred to as principal) will consist of the dollar amount disbursed by the Government of the exporting country for the commodities (not including any ocean transportation costs) less any portion of the initial payment payable to the Government of the exporting country.

Le principal sera payé conformément au calendrier des paiements figurant dans la IIème Partie du présent accord. Le premier versement sera dû et payable à la date fixée dans la IIème Partie du présent accord. Les versements suivants seront dus et payables à intervalles d'un an à compter de la date d'échéance du premier versement. Tout paiement imputable au principal pourra être effectué avant la date de son échéance.

2. Les intérêts portant sur le montant non payé du principal dû au Gouvernement du pays exportateur comme suite à la livraison de produits au cours de chaque année civile seront payés de la façon suivante:

a) Dans le cas du crédit en dollars, les intérêts commenceront à courir à compter de la date de la dernière livraison de produits au cours de chaque année civile. Les intérêts seront payés au plus tard à la date à laquelle est due chaque tranche de remboursement du principal, excepté que si l'échéance de la première tranche tombe plus d'un an après ladite date de dernière livraison, le premier paiement d'intérêts sera effectué, au plus tard, à une date correspondant exactement, au mois et au jour, à ladite date de dernière livraison et, par la suite, les intérêts seront payés annuellement et, au plus tard, à la date d'échéance de chaque tranche de remboursement du principal.

b) Dans le cas du crédit en monnaie locale convertible, les intérêts commenceront à courir à compter de la date du décaissement en dollars du Gouvernement du pays exportateur. Lesdits intérêts seront payés annuellement dans un délai d'un an à compter de la date de la dernière livraison de produits au

The principal shall be paid in accordance with the payment schedule in Part II of this agreement. The first installment payment shall be due and payable on the date specified in Part II of this agreement. Subsequent installment payments shall be due and payable at intervals of one year thereafter. Any payment of principal may be made prior to its due date.

2. Interest on the unpaid balance of the principal due the Government of the exporting country for the commodities delivered in each calendar year shall be paid as follows:

a) In the case of Dollar Credit, interest shall begin to accrue on the date of last delivery of these commodities in each calendar year. Interest shall be paid not later than the due date of each installment payment of principal, except that if the date of the first installment is more than a year after such date of last delivery, the first payment of interest shall be made not later than the anniversary date of such date of last delivery and thereafter payment of interest shall be made annually and not later than the due date of each installment payment of principal.

b) In the case of Convertible Local Currency Credit, interest shall begin to accrue on the date of dollar disbursement by the Government of the exporting country. Such interest shall be paid annually beginning one year after the date of last delivery of commodities in each calendar year, except that if

cours de chaque année civile, excepté que si la date d'échéance des tranches de paiement attribuables à ces produits ne tombe pas à une date correspondant exactement, au mois et au jour, à ladite date de dernière livraison, tous intérêts ainsi courus à la date d'échéance de la première tranche de remboursement seront dus à la même date que la première tranche de paiement et, par la suite, lesdits intérêts seront payés aux dates d'échéance des tranches de paiement suivantes.

3. En ce qui concerne la période allant de la date à laquelle les intérêts commenceront à courir jusqu'à la date d'échéance de la première tranche de paiement, les intérêts courus seront calculés au taux initial d'intérêt fixé dans la IIème Partie du présent accord. Par la suite, les intérêts courus seront calculés au taux d'intérêt définitif fixé dans la IIème Partie du présent accord.

E. Dépôts des Versements

Le Gouvernement du pays importateur effectuera ou fera en sorte que soient effectués des versements au Gouvernement du pays exportateur selon un montant, une monnaie et des taux de change stipulés dans le présent accord, de la façon suivante:

1. Les versements en dollars seront remis au Treasurer, Commodity Credit Corporation, United States Department of Agriculture, Washington, D.C. 20250, à moins qu'il ne soit convenu entre les deux Gouvernements d'une autre méthode de paiement.

the installment payments for these commodities are not due on some anniversary of such date of last delivery, any such interest accrued on the due date of the first installment payment shall be due on the same date as the first installment; and thereafter such interest shall be paid on the due dates of the subsequent installment payments.

3. For the period of time from the date the interest begins to the due date for the first installment payment, the interest shall be computed at the initial interest rate specified in Part II of this agreement. Thereafter, the interest shall be computed at the continuing interest rate specified in Part II of this agreement.

E. Deposit of Payments

The Government of the importing country shall make, or cause to be made, payments to the Government of the exporting country in the currencies, amounts, and at the exchange rates provided for in this agreement as follows:

1. Dollar payments shall be remitted to the Treasurer, Commodity Credit Corporation, United States Department of Agriculture, Washington, D.C. 20250, unless another method of payment is agreed upon by the two governments.

2. Les versements en monnaie locales du pays importateur (ci-après dénommés "monnaies locales") seront déposés au compte du Gouvernement des Etats-Unis d'Amérique dans des comptes portant intérêt, dans des banques désignées par le Gouvernement des Etats-Unis d'Amérique dans le pays importateur.

F. Recettes des Ventes

Le montant total des fonds acquis par le pays importateur par suite de la vente de produits financés aux termes du présent accord, et devant être affecté aux fins de développement économiques énoncées dans la IIème Partie du présent accord, ne devra pas être inférieur à la somme en monnaie locale équivalente du déboursement en dollars effectué par le Gouvernement du pays exportateur dans le cadre du financement des produits (en dehors du frêt différentiel), étant entendu, cependant, que des recettes ainsi affectées sera déduit tout paiement utilisant la monnaie locale, effectué par le Gouvernement du pays importateur. Le taux de change devant servir de base au calcul de cette équivalence en monnaie locale sera le taux auquel l'autorité monétaire centrale du pays importateur, ou son représentant autorisé, vend des devises étrangères en échange de monnaie locale à l'occasion de l'importation commerciale de produits identiques. Tous fonds ainsi acquis et prêtés par le Gouvernement du pays importateur à des organisations privées ou non-gouvernementales le seront à un taux d'intérêt approximativement équivalent aux taux appliqués à des prêts semblables dans le pays importateur. Le Gouvernement du pays importateur devra fournir, suivant sa méthode d'établissement de rapports budgétaires portant sur l'exercice financier, à tous moments où le demanderait le Gouvernement du pays exportateur, mais à des intervalles de temps d'un an maximum,

2. Payments in the local currency of the importing country (hereinafter referred to as local currency), shall be deposited to the account of the Government of the United States of America in interest bearing accounts in banks selected by the Government of the United States of America in the importing country.

F. Sales Proceeds

The total amount of the proceeds accruing to the importing country from the sale of commodities financed under this agreement, to be applied to the economic development purposes set forth in Part II of this agreement, shall be not less than the local currency equivalent of the dollar disbursement by the government of the exporting country in connection with the financing of the commodities (other than the ocean freight differential), provided, however, that the sales proceeds to be so applied shall be reduced by the currency use payment, if any, made by the government of the importing country. The exchange rate to be used in calculating this local currency equivalent shall be the rate at which the central monetary authority of the importing country or its authorized agent, sells foreign exchange for local currency in connection with the commercial import of the same commodities. Any such accrued proceeds that are loaned by the government of the importing country to private or non-governmental organizations shall be loaned at rates of interest approximately equivalent to those charged for comparable loans in the importing country. The government of the importing country shall furnish in accordance with its fiscal year budget reporting procedure, at such times as may be requested by the government

un bilan des recettes et des dépenses auxquelles ces recettes sont affectées, accompagné de la certification des services compétents du Gouvernement du pays importateur et, dans le cas des dépenses, de l'indication du secteur budgétaire auxquelles lesdites dépenses se rapportent.

G. Calculs

Le calcul du paiement initial, du paiement utilisant la monnaie locale et de tous les remboursements du principal et des intérêts prévus par le présent accord sera effectué en dollars des Etats-Unis.

H. Paiements

Tous les paiements seront effectués en dollars des Etats-Unis ou, si le Gouvernement du pays exportateur en décide ainsi,

1. Lesdits paiements seront effectués en monnaies facilement convertibles de tiers pays, à un taux de change dont il sera mutuellement convenu, et seront utilisés par le Gouvernement du pays exportateur pour permettre à celui-ci d'acquitter ses obligations ou, dans le cas des paiements utilisant la monnaie locale, pour répondre aux buts énoncés dans la IIème Partie du présent accord;

2. Lesdits paiements seront effectués en monnaie locale au taux de change applicable stipulé à l'article III G de la Ière Partie du présent accord, en vigueur à la date à laquelle les paiements seront effectués, et, au gré du Gouvernement du pays exportateur pour permettre à celui-ci d'acquitter ses obligations ou, dans le cas des paiements utilisant la monnaie locale, pour répondre aux buts énoncés dans la IIème Partie du présent accord dans le pays importateur.

of the exporting country but not less often than annually, a report of the receipt and expenditure of the proceeds, certified by the appropriate audit authority of the government of the importing country, and in case of expenditures the budget sector in which they were used.

G. Computations

The computation of the initial payment, currency use payment and all payments of principal and interest under this agreement shall be made in United States dollars.

H. Payments

All payments shall be in United States dollars or, if the Government of the exporting country so elects,

1. The payments shall be made in readily convertible currencies of third countries at a mutually agreed rate of exchange and shall be used by the government of the exporting country for payment of its obligations or, in the case of currency use payments, used for the purpose set forth in Part II of this agreement; or

2. The payments shall be made in local currency at the applicable exchange rate specified in Part I, Article III, G of this agreement in effect on the date of payment and shall, at the option of the Government of the exporting country, be converted to United States dollars at the same rate, or used by the Government of the exporting country for payment of its obligations or, in the case of currency use payments, used for the purposes set forth in Part II of this agreement in the importing country.

ARTICLE III

A. Commerce mondial

Les deux Gouvernements prendront le maximum de précautions pour s'assurer que les ventes de produits agricoles effectuées conformément aux dispositions du présent accord ne portent pas préjudice aux marchés habituels du pays exportateur pour ces produits,ou n'affectent pas indûment les prix mondiaux de ces produits agricoles,ou n'entravent pas les pratiques commerciales d'usage établies avec les pays que le Gouvernement du pays exportateur considère comme étant des pays amis (dénommés "pays amis" dans le présent accord). Aux fins d'application de la présente clause, le Gouvernement du pays importateur devra:

1. s'assurer que le total de ses importations en provenance du pays exportateur et d'autres pays amis, payé au moyen de ressources du pays importateur, sera au moins égal à la quantité des produits agricoles qui pourraient être spécifiés dans le tableau des marchés habituels figurant dans la IIème Partie du présent accord,durant chaque période d'importation indiquée dans ledit tableau et durant chaque période comparable suivante au cours de laquelle des produits dont l'achat sera financé aux termes du présent accord auront été livrés. Les importations de produits destinés à satisfaire les besoins concernant les marchés habituels,au cours de chaque période d'importation,devront être effectuées en plus des achats financés aux termes du présent accord;

2. prendre toutes dipositions pour assurer au pays exportateur une part équitable de tous achats commerciaux supplémentaires de produits agricoles effectués par le pays importateur;

ARTICLE III

A. World trade

The two Governments shall take maximum precautions to assure that sales of agricultural commodities pursuant to this agreement will not displace usual marketings of the exporting country in these commodities or unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with countries the Government of the exporting country considers to be friendly to it (referred to in this agreement as friendly countries). In implementing this provision the Government of the importing country shall:

1. insure that total imports from the exporting country and other friendly countries into the importing country paid for with the resources of the importing country will equal at least the quantities of agricultural commodities as may be specified in the usual marketing table set forth in Part II during each import period specified in the table and during each subsequent comparable period in which commodities financed under this agreement are being delivered. The imports of commodities to satisfy these usual marketing requirements for each import period shall be in addition to purchases financed under this agreement;

2. take steps to assure that the exporting country obtains a fair share of any increase in commercial purchases of agricultural commodities by the importing country;

3. prendre toutes dispositions possibles pour empêcher la revente, le détournement en transit ou le transbordement à destination d'autres pays des produits agricoles achetés en vertu des dispositions du présent accord, ou l'utilisation de ces produits à des fins autres que celles devant satisfaire aux besoins du pays (sauf dans les cas où leur revente, leur détournement en transit, leur transbordement ou leur utilisation à d'autres fins que celles prévues seraient expréssement approuvés par le Gouvernement des Etats-Unis d'Amérique);

4. prendre toutes dispositions possibles pour empêcher l'exportation de tous produits d'origines nationale ou étrangère, dont définition est donnée dans la IIème Partie du présent accord, durant la période de limitation des exportations spécifiée dans le tableau des limitations des exportations figurant dans la IIème Partie du présent accord (sauf stipulations particulières de la IIème Partie du présent accord ou dans le cas où de telles exportations seraient expréssement approuvées pat le Gouvernement des Etats-Unis d'Amérique).

B. Commerce privé

Aux fins d'application du présent accord, les deux Gouvernements s'efforceront d'assurer les conditions commerciales qui permettront aux négociants privés d'exercer leur commerce sans entrave.

C. Auto-assistance

La IIème Partie du présent accord décrit le programme que le Gouvernement du pays importateur a entrepris en vue d'améliorer sa production, ses installations d'entreposage et

3. take all possible measures to prevent the resale, diversion in transit, or transshipment to other countries or the use for other than domestic purposes of the agricultural commodities purchased pursuant to this agreement (except where such resale, diversion in transit, transshipment or use is specifically approved by the Government of the United States of America);

4. take all possible measures to prevent the export of any commodity of either domestic or foreign origin, which is defined in Part II of this agreement, during the export limitation period specified in the export limitation table in Part II (except as may be specified in Part II or where such export is otherwise specifically approved by the Government of the United States of America).

B. Private trade

In carrying out the provisions of this agreement, the two Governments shall seek to assure conditions of commerce permitting private traders to function effectively.

C. Self-help

Part II describes the program the Government of the importing country is undertaking to improve its production, storage, and distribution of agricultural commodities. The

la commercialisation des produits agricoles. Le Gouvernement du pays importateur devra, dans les formes et aux dates auxquelles le Gouvernement du pays exportateur pourrait en faire la demande, fournir un rapport sur les progrès réalisés par le Gouvernement du pays importateur quant à l'application des mesures d'auto-assistance de cette nature.

Government of the importing country shall furnish in such form and at such time as may be requested by the Government of the exporting country, a statement of the progress the Government of the importing country is making in carrying out such self-help measures.

D. Informations

En plus de tous autres rapports dont les deux Gouvernements sont convenus, le Gouvernement du pays importateur devra, au moins tous les trimestres au cours de la période d'approvisionnement spécifiée à la IIème Partie, Point I, du présent accord et lors de toute période ultérieure comparable durant laquelle des produits achetés aux termes du présent accord sont importés ou utilisés, communiquer ce qui suit:

1. Les renseignements ci-après concernant chaque expédition de produits relevant du présent accord: le nom de chaque navire, la date d'arrivée, le port d'arrivée, le produit et la quantité livrés, l'état dans lequel la cargaison a été livrée;

2. Un rapport indiquant les progrès réalisés en vue de satisfaire aux obligations relatives aux marchés habituels;

3. Un rapport exposant les mesures prises aux fins d'application des dispositions des sections A. 2) et 3) du présent article;

4. Des informations statistiques sur les importations par pays d'origine et sur les exportations par pays destinataire, quant aux produits identiques ou similaires à ceux qui sont importés aux termes du présent accord.

D. Reporting

In addition to any other reports agreed upon by the two governments, the Government of the importing country shall furnish at least quarterly for the supply period specified in Part II, Item I of this agreement and any subsequent comparable period during which commodities purchased under this agreement are being imported or utilized.

1. The following information in connection with each shipment of commodities under the agreement: the name of each vessel, the date of arrival, the port of arrival, the commodity and quantity received, and the condition in which received;

2. A statement by it showing the progress made toward fulfilling the usual marketing requirements;

3. A statement of the measures it has taken to implement the provisions of sections A. 2) and 3) of this article; and

4. Statistical data on imports by country of origin and exports by country of destination, of commodities which are the same as or like those imported under the agreement.

E. Méthode de rapprochement et d'ajustement des comptes

Les deux Gouvernements devront chacun adopter toute méthode propre à faciliter le rapprochement de leurs relevés respectifs des montants financés en ce qui concerne les produits livrés durant chaque année civile. La Commodity Credit Corporation du pays exportateur et le Gouvernement du pays importateur pourront procéder à tous ajustements dès comptes de crédit qu'ils jugeraient d'un commun accord comme étant appropriés.

F. Définitions

Aux fins d'application du présent accord:

1. La livraison sera sensée avoir eu lieu à la date du reçu à bord figurant dans le connaissement maritime signé ou paraphé pour le compte du transporteur;

2. L'importation sera sensée avoir eu lieu lorsque le produit visé aura passé la frontière du pays importateur et aura été dédouané, s'il y a lieu, par ledit pays;

3. L'ntilisation sera sensée avoir eu lieu lorsque le produit visé aura été vendu aux négociants dans le pays importateur, sans restriction concernant son emploi dans ledit pays, ou lorsqu'il aura été distribué de toute autre manière au consommateur dans le pays.

G. Taux de change applicable

Aux fins d'application du présent accord, le taux de change applicable en vue de déterminer le montant de toute somme en monnaie locale devant être versée au Gouvernement du pays exportateur

E. Procedures for Reconciliation and Adjustment of Accounts

The two Governments shall each establish appropriate procedures to facilitate the reconciliation of their respective records on the amounts financed with respect to the commodities delivered during each calendar year. The Commodity Credit Corporation of the exporting country and the Government of the importing country may take such adjustments in the credit accounts as they mutually decide are appropriate.

F. Dèfinitions

For the purposes of this agreement:

1. Delivery shall be deemed to have occurred as of the on-board date shown in the ocean bill of lading which has been signed or initialed on behalf of the carrier;

2. Import shall be deemed to have occurred when the commodity has entered the country, and passed through customs, if any, of the inporting country, and

3. Utilisation shall be deemed to have occurred when the commodity is sold to the trade within the importing country without restriction on its use within the country or otherwise distributed to the consumer within the country.

G. Applicable Exchange Rate

For the purposes of this agreement, the applicable exchange rate for determining the amount of any local currency to be paid to the Government of the exporting country shall be a rate in effect on the date of

sera un taux en vigueur à la date de versement par le pays importateur qui ne sera pas moins favorable au Gouvernement du pays exportateur que le taux de change le plus élevé pouvant être légalement obtenu dans le pays importateur et un taux qui ne sera pas moins favorable au Gouvernement du pays exportateur que le taux de change le plus élevé pouvant être obtenu par tout autre pays. En ce qui concerne la monnaie locale:

1. Tant qu'un système de taux de change unitaire est maintenu en vigueur par le Gouvernement du pays importateur, le taux de change applicable sera le taux auquel l'autorité monétaire centrale du pays importateur, ou son agent autorisé, vend des devises étrangères en échange de monnaie locale;

2. Au cas où un système de taux de change unitaire ne serait pas maintenu en vigueur, le taux applicable sera le taux qui (selon qu'il en aura été convenu mutuellement par les deux Gouvernements) répondra aux conditions stipulées dans le premier alinéa de la présente section G.

H. Consultation

A la requête de l'un ou l'autre, les deux Gouvernements se consulteront en ce qui concerne toute question soulevée par le présent accord, notamment en ce qui concerne l'exécution des dispositions prévues en vertu du présent accord.

I. Identification et publicité

Le Gouvernement du pays importateur prendra toutes mesures dont il pourrait être mutuellement convenu avant la livraison, en vue de procéder à l'identification des denrées alimentaires aux lieux de distribution dans le pays importateur et en vue d'assurer la publicité de la manière prévue au sous paragraphe 103 (1) de la Loi.

payment by the importing country which is not less favorable to the Government of the exporting country than the highest exchange rate legally obtainable in the importing country and which is not less favorable to the Government of the exporting country than the highest exchange rate obtainable by any other nation. With respect to local currency:

1. As long as a unitary exchange rate system is maintained by the Government of the importing country, the applicable exchange rate will be the rate at which the central monetary authority of the importing country, or its authorized agent, sells foreign exchange for local currency;

2. If a unitary exchange rate system is not maintained, the applicable rate will be the rate (as mutually agreed by the two Governments) that fulfills the requirements of the first sentence of this section G.

H. Consultation

The two Governments shall, upon request of either of them, consult regarding any matter arising under this agreement, including the operation or arrangements carried out pursuant to this agreement.

I. Identification and Publicity

The Government of the importing country shall undertake such measures as may be mutually agreed prior to delivery for the identification of food commodities at points of distribution in the importing country, and for publicity in the same manner as provided for in subsection 103 (1) of the Act.

IIEME PARTIE - DISPOSITIONS SPECIALES

CHAPITRE I - TABLEAU DES PRODUITS

Denrée: Riz

Période pour laquelle la denrée est fournie (Année Financière Américaine): 1980

Quantité Approximative: 16.000T A/ (Tonnes métriques)

Valeur maximum du prix du marché à l'exportation (en million de dollars): 7 m Dollars

CHAPITRE II - CONDITIONS DE PAIEMENTS (Prêt convertible en monnaie locale)

(1) Paiement initial - Néant

(2) Paiement pour utilisation des fonds - Néant

(3) Remise du prêt - jusqu'à concurrence de cent pour cent (100%) du montant du financement fourni dans le cadre du présent accord, plus l'intérêt, pour soutenir le Programme Alimentaire pour le Développement décrit au CHAPITRE VII.

A/ Avant la délivrance des autorisations d'achat, le type et la quantité des denrées seront reconfirmées par le G.E.U. et le G.S. Selon la disponibilité de la denrée sur le marché, un effort particulier sera fait pour voir s'il sera possible de fournir des brisures à un taux plus élevé qu'il n'y en a d'habitude. Dans le cas où il serait possible de fournir du maïs et/ou d'autres denrées PL-480 dans le cadre du présent accord, le G.E.U. est disposé à envisager un amendement de l'accord, pour refléter les quantités de ces denrées, fixées d'un commun accord.

PART II - PARTICULAR PROVISIONS

ITEM I - COMMODITY TABLE

Commodity: Rice

Supply Period (US Fiscal Year): 1980

Approximate Quantity: 16,000 A/ (Metric tons)

Maximum export market value: Dols 7.0 (Millions)

ITEM II - PAYMENT TERMS (Convertible Local Currency Credit CLCC)

(1) Initial payment - None

(2) Currency Use Payment - None

(3) Currency Use Offset - Up to one hundred percent (100%) of the value of financing provided under this agreement plus interest, to support the Food for Development Program identified in ITEM VII.

A/ Before purchase authorizations (PA) are issued, type and quantity of each commodity will be reconfirmed by USG and GOS. Depending on commodity availability, special effort will be made to consider whether a higher degree of broken rice than usually available can be provided. Should it become feasible to provide corn and/or other PL-480 commodities under this agreement, USG will consider amending the agreement to reflect agreed upon commodity levels.

(4) Nombre d'acomptes - Trente et un (31)

(5) Montant de chaque acompte - à peu près l'équivalent des montants annuels

(6) Echéance du premier acompte - dix (10)ans après la date de la dernière livraison du produit de chaque année

(7) Taux d'intérêt initial - deux pour cent (2%)

(8) Taux d'intérêt ultérieur - trois pour cent (3%)

CHAPITRE III - TABLEAU DES IMPORTATIONS NORMALES

Denrée: Riz

Année d'importation: 1980 (Année Financière Américaine)

Obligations relatives au Marché Habituel (en tonnes métriques): 204.000 TM.

CHAPITRE IV - DELAI D'EXPORTATION

A. Le délai d'exportation sera l'année financière américaine 1980 ou toute autre année financière américaine au cours de laquelle les produits financés par cet accord sont importés ou utilisés.

B. Pour l'application de la Partie I, Article III A (4) de l'accord, les denrées qui ne pourront pas être exportées sont: le riz, riz sous forme de paddy, brun ou décortiqué.

CHAPITRE V - MESURES D'AUTO-ASSISTANCE

A. Conformément à la Partie I, l'Article III (C), alinéa B ci-après décrit le programme que le Gouvernement du Sénégal doit

(4) Number of Installment Payments - thirty one (31)

(5) Amount of each Installment Payment - approximately equal annual amounts

(6) Due date of first Installment Payment - ten (10) years after date of last delivery of commodities in each calendar year.

(7) Initial Interest Rate - two percent (2%)

(8) Continuing Interest Rate - three percent (3%)

ITEM III -USUAL MARKETING TABLE

Commodity: Rice

Import period: 1980 (US Fiscal year)

Usual marketing requirement (Metric tons): 204,000 MT

ITEM IV - EXPORT LIMITATIONS

A. The export limitation period shall be U.S. fiscal year 1980 or any subsequent U.S. fiscal year during which commodities financed under this agreement are being imported or utilized.

B. For the purpose of Part I, Article III A (4) of the agreement, commodities which may not be exported are: rice, rice in the form of paddy, brown or milled.

ITEM V - SELF-HELP MEASURES

A. In accordance with Part I, Article III (C), paragraph B below describes the program that the GOS is undertaking to improve its

entreprendre en vue d'améliorer la production, le stockage et la distribution des produits agricoles. En appliquant ces mesures d'auto-assistance, un accent particulier sera mis sur la contribution directe du progrès vers le dévellopement en milieu rural et permettant aux pauvres de participer activement à l'augmentation de la production agricole par l'intermédiaire des petites exploitations.

production, storage and distribution of agricultural commodities. In implementing these self-help measures specific emphasis will be placed on contributing directly to development progress in poor rural areas and enabling the poor to participate actively in increasing agricultural production through small agriculture.

B. Le Gouvernement du Sénégal s'engage à soutenir avec des moyens financiers, techniques et de gestion les programmes ci-après destinés à améliorer les services et infrastructures en milieu rural du Sénégal. Ces programmes, qui sont mis en oeuvre avec le concours du Gouvernement des Etats-Unis, bénéficieront d'une attention prioritaire du Gouvernement du Sénégal pour tout soutien nécessaire.

B. The Government of Senegal agrees to support with appropriate financial, technical, and managerial resources the following programs which are designed to improve services and facilities in the rural areas of Senegal. Those programs which are being implemented in cooperation with the U.S. Government will receive priority attention for receipt of GOS support.

Le Gouvernement du Sénégal donnera appui, par l'intermédiaire du ministère intéressé, aux activités suivantes:

The GOS will provide support through the appropriate Ministry for the following activities:

a. Recherches Agronomiques Appliquées, faites par l'Institut Sénégalais de Recherches Agricoles (ISRA) sous la tutelle du SERST, orientées vers l'amélioration de la production, la commercialisation et le stockage des produits vivriers;

a. Applied Agricultural Research, by the Institute Senegalese of Research Agronomic (ISRA) under the direction of SERST, directed toward improving production, marketing, and storage of foodgrains;

b. Construction et aménagement des pépinières forestières de la Direction des Eaux et Forêts pour soutenir ses programmes continus de brise-vent, reboisement villageois et conservation des ressources naturelles;

b. Construction and rehabilitation of forestry nurseries in Eaux et Forêts, in support of their ongoing windbreak, village woodlot, and resource conservation program;

c. Extension et amélioration des services de coopératives et fourniture des intrants de production agricole;

c. Expansion and improvement of cooperative facilities and the supply of agricultural inputs;

d. L'élevage y compris:

- l'amélioration des services vétérinaires et la lutte contre les maladies animales, en collaboration avec les éleveurs;

- la création de coopératives d'éleveurs pour faciliter la commercialisation du bétail et ses sous-produits;

- l'amélioration des ressources en eau, au niveau villageois, utilisées conjointement par les populations et le bétail, y compris l'entretien des puits et l'amélioration de la qualité de l'eau;

- l'amélioration de la nutrition des éleveurs villageois, surtout pendant la saison sèche;

e. L'aménagement de petits périmètres irrigués au niveau villageois en mettant l'accent sur l'assistance technique à fournir pour la sélection des sites, l'élaboration du programme d'aménagement des périmètres, le développement de la production des produits alimentaires de haute qualité dont l'aviculture, l'horticulture, la pisciculture et le maraîchage.

f. L'octroi de fonds destinés aux frais de fonctionnement des stages de formation portant sur les techniques de base d'exécution de projets, organisés dans les centres de formation rurale, et comprenant la formation dans le domaine de l'encadrement, la gestion des magasins de stockage, la tenue des dossiers des projets et la comptabilité.

g. L'évaluation et l'élaboration des projets en mettant un accent particulier sur le plan intérieur des services d'études et d'évaluation des organismes de développement régionaux.

d. Livestock production including:

- improvements in veterinary services and disease control in cooperation with village herders;

- development of herder cooperatives to facilitate commercialization of livestock and livestock products;

- improvements in village level water resources used jointly by humans and herds including well maintenance and improved water quality;

- improvements in nutrition of village herders especially during the dry season;

e. Development of irrigated perimeters at village level with emphasis on technical assistance in the selection of sites, and planning the perimeter development program; developing the production of high quality foods including poultry, fruit, fish and vegetable cultivation;

f. Provision of operating expenses for Special Training Courses at Rural Training Centers in the basic technology of project implementation including training for extension services, warehouse management, maintenance of project records and bookkeeping;

g. Project evaluation and planning with particular emphasis on the internal upgrading of the study and evaluation branches of the Regional Development Authorities.

CHAPITRE VI - OBJECTIFS DE DEVELOPPEMENT ECONOMIQUE AUXQUELS LES RECETTES ACCUMULEES PAR LE PAYS IMPORTATEUR DOIVENT SERVIR

A. Les recettes accumulées par le pays importateur provenant de la vente des produits financés aux termes du présent accord seront consacrées au financement du Programme Alimentaire pour le Développement décrit à l'Annexe B, CHAPITRE III.

Dans la mesure où ces recettes ne sont pas utilisées pour financer de tels objectifs dans le cadre du Programme Titre III, elles seront consacrées aux activités d'auto-assistance définies au CHAPITRE V de la 2ème Partie de l'accord, et aux secteurs de développement suivants: l'agriculture et le développement rural.

B. En utilisant les recettes à ces fins, l'accent sera mis sur l'amélioration effective du niveau de vie des couches les plus démunies de la population du pays bénéficiaire, et le renforcement de leur capacité de participation au développement de leur pays.

CHAPITRE VII - PROGRAMME ALIMENTAIRE POUR LE DEVELOPPEMENT AUQUEL S'APPLIQUE LA REMISE DE DETTE

Les Annexes A et B définissent l'entente des deux parties portant sur le Programme Alimentaire pour le Développement qui sera réalisé par le Gouvernement du Sénégal avec les recettes provenant de la vente des denrées financées par le présent accord. En cas de contradiction entre, d'une part les dispositions des Parties I, II et III du présent accord, et d'autre part les Annexes A et B, ces dernières feront foi.

ITEM VI - ECONOMIC DEVELOPMENT PURPOSES FOR WHICH PROCEEDS ACCRUING TO IMPORTING COUNTRY ARE TO BE USED

A. The proceeds accruing to the importing country from the sale of commodities financed under this agreement will be used for financing the Food For Development Program identified in Annex B, ITEM III.

To the extent that such proceeds are not used for financing such purposes under the Title III program, they will be applied to the self-help measures set forth in ITEM V of Part II of the Title I agreement, and for the following development sectors: agriculture and rural development.

B. In the use of proceeds for these purposes emphasis will be placed on directly improving the level of living of the poorest of the recipient country's people and their capacity to participate in the development of their country.

ITEM VII - FOOD FOR DEVELOPMENT PROGRAM TO WHICH CURRENCY USE OFFSET APPLIES

Annexes A and B set forth the understanding of the parties concerning the Food For Development Program to be undertaken by the GOS with the proceeds from the sale of agricultural commodities financed by this agreement. In the event of any inconsistencies between the provisions of Parts I, II and III of this agreement and Annexes A and B, such Annexes shall be controlling.

Les Annexes A et B sont incorporées à l'accord. L'Annexe A définit les responsabilités des deux parties (G.E.U. et G.S.) concernant le Programme Alimentaire pour le Développement devant être réalisé par le pays importateur (G.S.) tel que décrit à l'Annexe B.

Annexes A and B are incorporated in the agreement. Annex A sets forth the responsabilities of the parties (GOS and USG) with reference to the agreed Food For Development Program to be carried out by the importing country (GOS) as described in Annex B.

IIIEME PARTIE - DISPOSITIONS FINALES

A. Le présent accord pourra être dénoncé pour toute raison par l'un ou l'autre des Gouvernements par notification de dénonciation adressée à l'autre Gouvernement et par le Gouvernement du pays exportateur si celui-ci juge que le programme d'auto-assistance décrit dans l'accord ne se déroule pas convenablement. Cette dénonciation ne réduira aucune des obligations financières que le Gouvernement du pays importateur aura contactées à la date de ladite dénonciation.

B. Le présent accord entrera en vigueur à la date de sa signature.

EN FOI DE QUOI, les représentants soussignés, dûment autorisés à cet effet, ont signé le présent accord.

FAIT à DAKAR,

le 13 MAI 1980 1980

POUR LE GOUVERNEMENT DE LA REPUBLIQUE DU SENEGAL

Ousmane SECK
Ministre de l'Economie et des Finances

PART III - FINAL PROVISIONS

A. This agreement may be terminated by either Government by notice of termination for any reason, and by the Government of the exporting country if it should determine that the self-help program described in the agreement is not being adequately developed. Such termination will not reduce any financial obligations the Government of the importing country has incurred as of the date of termination.

B. This agreement shall enter into force upon signature.

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present agreement.

DONE at DAKAR,

this 16 day of MAY 1980

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Herman Cohen
Ambassador of the United States of America

ANNEXE A

ACCORD CONCLU EN VERTU DU TITRE I DE LA LOI PL-480, PREVOYANT UN PROGRAMME ALIMENTAIRE POUR LE DEVELOPPEMENT, TITRE III

Le Gouvernement des Etats-Unis d'Amérique, en tant que pays exportateur, et le Gouvernement de la République du Sénégal, en tant que pays importateur:

Prenant note de la politique du Gouvernement des Etats-Unis visant à orienter leur productivité agricole de façon à établir un lien solide entre l'assistance alimentaire et les efforts déployés par le Gouvernement du Sénégal pour accroître les disponibilités alimentaires pour les pauvres, et améliorer la qualité de leur vie sous différents rapports;

Etant convenus du principe que l'utilisation des produits ou des recettes provenant de la vente de ces produits aura pour but de donner aux pauvres du Sénégal plus ample accès à un approvisionnement alimentaire croissant et de meilleure qualité, au moyen d'activités visant à améliorer la production, la protection et l'utilisation des aliments, et à rehausser la condition des pauvres du secteur rural du Sénégal;

Désirant énoncer l'accord qui régira la vente de produits agricoles au Sénégal, en vue d'appliquer le principe sus-mentionné en vertu des dispositions de la Loi de 1954 sur le Développement des Echanges Commerciaux et de l'Aide en Produits Agricoles, de ses amendements (ci-après dénommée "La Loi"), et des mesures que les deux Gouvernements prendront pour suivre les politiques sus-mentionnées;

ANNEX A

PL-480 TITLE I AGREEMENT PROVIDING FOR A TITLE III FOOD FOR DEVELOPMENT PROGRAM

The Government of the United States of America (USG), the exporting country, and the Government of the Republic of Senegal (GOS), the importing country:

Recognizing the policy of the USG to use its agricultural productivity in a manner which will establish a strong relationship between food assistance and efforts by the GOS to increase the availability of food for the poor and to improve in other ways the quality of their lives;

Having agreed upon a proposal for the intended use of commodities or funds generated from the sale of such commodities to increase the access of the poor in Senegal to a growing and improving food supply through activities designed to improve the production, protection and utilization of food, and to increase the well-being of the poor in the rural sector of Senegal; and

Desiring to set forth the understanding that will govern the sale of agricultural commodities in Senegal in order to carry out the above-mentioned proposal pursuant to the authority of the Agricultural Trade Development and Assistance Act of 1954, as amended (hereinafter referred to as the Act), and the measures the two governments will undertake to further the above-mentioned policies;

Sont convenus de ce qui suit:

CHAPITRE I. RESPONSABILITES DU GOUVERNEMENT DES ETATS UNIS

A. Sous réserve de la disponibilité de fonds et de produits, le Gouvernement des Etats Unis s'engage à accorder un crédit au Gouvernement du Sénégal, aux termes du Titre I de la Loi, pour l'achat de produits agricoles et à mettre en oeuvre les dispositions du Programme Alimentaire pour le Développement énoncées à l'Annexe B du présent accord.

B. Dès que le Gouvernement des Etats-Unis aura reçu des preuves satisfaisantes du déboursement de fonds du compte spécial en vue de leur utilisation par le Gouvernement du Sénégal aux fins admissibles décrites ci-dessous, dans le cadre des activités et/ou programmes énoncés à l'Annexe B, le Gouvernement des Etats-Unis imputera ces déboursements aux obligations de paiement souscrites, conformément au Titre I de la Loi et en vertu de cet accord, et décrites aux Rubriques II et III ci-dessous.

CHAPITRE II. RESPONSABILITES DU GOUVERNEMENT DU SENEGAL

A. Le Gouvernement du Sénégal s'engage à mettre en oeuvre le programme mentionné à l'Annexe B. A cet égard, le Gouvernement du Sénégal s'engage à:

1. Utiliser les recettes provenant de la vente des produits agricoles financés dans le cadre de cet accord pour mener les activités de développement énoncées à l'Annexe B;

Agree as follows:

ITEM I. RESPONSIBILITIES OF THE USG

A. Subject to the availability of funds and commodities, the USG agrees to furnish credit under authority of Title I of the Act to the GOS for the purchase of agricultural commodities and to carry out the provisions of the Food For Development Program as set forth in Annex B of this agreement.

B. On receipt of satisfactory evidence of disbursements from the special account for eligible uses by the GOS described below for the activities and/or programs described in Annex B, the USG will apply such disbursements against the Title I payment obligation incurred under this agreement as set forth in Items II and III below.

ITEM II. RESPONSIBILITIES OF THE GOS

A. The GOS agrees to carry out the program detailed in Annex B. In carrying out such program, the GOS agrees that it will:

1. Use the proceeds generated from the sale of agricultural commodities financed under this agreement to finance the development activities specified in Annex B;

2. Soumettre au Gouvernement des Etats-Unis, (à la date indiquée à l'Annexe B, Chapitre IV-B) un compte-rendu détaillé des activités et progrès réalisés dans le cadre du Programme Alimentaire pour le Développement, pendant la période correspondant à l'exercice fiscal américain, qui se termine le 30 septembre. Ce compte-rendu comprendra, entre autres, une comparaison des résultats et objectifs du programme, un bilan précis des produits et des recettes, de leur utilisation et des soldes en cours dans le compte spécial et dans les comptes de projets à la fin du dernier exercice, et toutes recommendations du Gouvernement du Sénégal en vue de la modification ou de l'amélioration du Programme Alimentaire pour le Développement.

2. Submit (on the date specified in Annex B, Item IV-B) a comprehensive report to the USG on the activities and progress achieved under the Food For Development Program, for the United States fiscal year ending September 30 including, but not limited to, a comparison of results with program targets, a specific accounting for commodities and funds generated, their uses, the outstanding balances at the end of the most recent fiscal year, and any recommendation of the GOS for modification and improvement of the Food For Development Program.

3. Maintenir les dossiers appropriés pour une période minimale de trois ans après la fin du programme, afin que le Gouvernement des Etats-Unis puisse procéder à une vérification des comptes et à un examen des mesures prises pour mettre en oeuvre le Programme Alimentaire pour le Développement.

3. Maintain adequate records for not less than three years after completion of the program to permit review and audit by the USG of measures taken to implement the Food For Development Program.

B. Le Gouvernement du Sénégal s'engage à ouvrir un compte spécial pour y verser les recettes provenant de la vente des produits qui lui seront fournis dans le cadre du Programme Alimentaire pour le Développement (P.A.D.) énoncé à l'Annexe B de cet accord, et à tenir ce compte conformément aux modalités suivantes:

B. The Government of Senegal agrees to establish a special account in which it will deposit the proceeds generated from the sale of the commodities provided to it for the Food For Development (FFD) Program set forth in Annex B of the agreement and maintain this account subject to the following conditions:

1. Les recettes en monnaie locale équivalant à chaque dollar déboursé par la Commodity Credit Corporation (Société de Crédit pour les Produits de Base) seront déposées au plus tard six mois civils après la date

1. The local currency proceeds equivalent to each dollar disbursement by CCC will be deposited not later than six calendar months after the date of such disbursement, using the exchange rate specified in

desdits déboursements, utilisant à cette fin le taux de change stipulé dans la Partie I de l'Article III-G, en vigueur à la date du déboursement par la Commodity Credit Corporation.

2. Les fonds déposés en monnaie locale seront utilisés pour financer le programme énoncé à l'Annexe B du présent accord.

CHAPITRE III. CREDIT RELATIF AUX EMPRUNTS CONTRACTES AUX TERMES DU TITRE I.

Le Gouvernement des Etats-Unis et le Gouvernement du Sénégal sont convenus de ce qui suit:

A. L'équivalent en dollars des fonds en monnaie locale déboursés aux fins admissibles énoncées à l'Annexe B sera calculé sur la base du taux de change stipulé dans la Partie I de l'Article III-G du présent accord, taux en vigueur à la date du déboursement desdits fonds du compte spécial. L'équivalent en dollars des fonds en monnaie locale déboursés aux fins admissibles énoncées à l'Annexe B sera crédité à titre de règlement aux termes des dispositions de la Partie I, Article II-H du présent accord en imputant le montant desdits fonds (1) au paiement des intérêts annuels redevables pour la période antérieure à la date d'échéance de la première tranche de paiement, en commençant par la première année, (2) aux paiements regroupant le remboursement du principal et le règlement des intérêts, en commençant par la première tranche de remboursement jusqu'à ventilation intégrale du montant des fonds en monnaie locale. Le déboursement de fonds d'un montant équivalent à la valeur en dollars du crédit consenti aux termes des dispositions de l'Article II-B-1

Part I, Article III-G, as of the date of disbursement by CCC.

2. Local currency deposited will be disbursed for the program set forth in Annex B of this agreement.

ITEM III. CREDIT FOR TITLE I LOAN INDEBTEDNESS

The USG and the GOS agree that:

A. The dollar equivalent of local currency disbursed for eligible uses identified in Annex B shall be calculated at the exchange rate specified in Part I, Article III-G of this agreement, applicable on the date of disbursement from the special account. The dollar equivalent of local current disbursed for the eligible uses identified in Annex B shall be credited as payment for the purpose of Part I, Article II-H of this agreement against (1) the amount of each year's interest payments due during the period prior to the due date of the first installment payment, starting with the first year, plus (2) the combined payments of principle and interest starting with the first installment payment until the value of the local currencies disbursed has been offset. Full disbursement from the special account of the local currency funds deposited in an amount equivalent to the dollar value of the credit furnished by the exporting country, in accordance with provisions of Item II-B-1 above for purposes specified in Annex B and in accordance with the provisions of this agreement, will be deemed to

aux fins admissibles énoncées à l'Annexe B du présent accord par le Gouvernement du pays exportateur, sera sensé constituer le règlement de toutes les tranches du principal et des intérêts dûs sur ce principal, pour les produits fournis aux termes du présent accord.

B. Le Gouvernement du Sénégal transmettra au Gouvernement des Etats-Unis, pour la période pendant laquelle des fonds seront déboursés conformément au paragraphe A ci-dessus, un état trimestriel des dépôts et déboursements effectués, cet état devant être certifié par l'autorité de vérification des comptes compétente du Gouvernement du Sénégal, ainsi qu'une description des activités auxquelles les fonds déboursés auront été consacrés.

C. Au moins 60 jours avant la date de la première échéance prévue aux termes du Titre I, fixée conformément aux dispositions de la Partie II, Rubrique II du présent accord, le Gouvernement du pays exportateur soumettra un calendrier d'amortissement, ainsi qu'un état des fonds déboursés du compte spécial, indiquant les imputations aux obligations de paiement aux termes du Titre I. Des états révisés des compensations en monnaie locale indiquant les déboursements et imputations supplémentaires seront fournis, le cas échéant.

D. Le Gouvernement du pays exportateur se réserve le droit de vérifier à quelles fins les fonds déboursés sont utilisés et de déterminer leur admissibilité en vue d'imputer les fonds déboursés aux obligations de paiement souscrites dans le cadre du présent accord, et aux termes du Titre I. Si le Gouvernement du pays

be payment of all installments of principal and interest payable thereon for the commodities furnished under this agreement.

B. For the period during which disbursements are made in accordance with paragraph A above, the GOS will furnish the USG a quarterly report of the deposits and disbursements made, certified by the appropriate audit authority of the GOS, and a description of the activities for which the disbursements were made.

C. Not less than 60 days before the first Title I payment becomes due under the terms of Part II, Item II of this agreement, the government of the exporting country will furnish a repayment schedule; a schedule of amounts disbursed from the special account showing applications to Title I payment obligations will also be furnished. Revised currency use offset schedules showing additional disbursements and applications will be furnished as appropriate.

D. The government of the exporting country reserves the right to review use of disbursements and to determine eligibility for application against Title I payment obligations under this agreement. If the government of the exporting country determines that a disbursement was made for an ineligible use, notice of such ineligibility

exportateur constate que des fonds déboursés ont été utilisés à des fins inadmissibles, il en notifiera le Gouvernement du pays importateur. Les deux gouvernements se consulteront, à la requête de l'un ou de l'autre, sur ladite inadmissibilité. Si la notification d'inadmissibilité n'est pas annulée par le Gouvernement du pays exportateur dans un délai de 90 jours à compter de la date de réception de ladite notification par le pays importateur, les fonds déboursés à des fins inadmissibles ne pourront être imputés aux obligations de remboursement, et le Gouvernement du pays exportateur aura la faculté de demander qu'un montant équivalent soit reversé au compte spécial. Dans la mesure où des fonds déboursés à des fins inadmissibles auront été imputés préalablement par le Gouvernement du pays exportateur aux obligations du paiement aux termes du Titre I, ladite imputation sera annulée.

shall be given by the government of the exporting country to the government of the importing country, and the two governments shall, upon the request of either, consult regarding such ineligibility. If the notice of ineligibility is not rescinded by the government of the exporting country within 90 days of receipt of such notice by the government of the importing country, disbursements for ineligible uses shall not be eligible for application to any indebtedness, and, at the option of the government of the exporting country, the equivalent amount shall be restored to the special account. To the extent that any disbursements for ineligible uses were previously applied by the government of the exporting country against the Title I payment obligation such application will be cancelled.

E. Le Gouvernement du pays exportateur aura le droit, à des moments raisonnables, d'inspecter les projets et d'examiner et vérifier les comptes, les procédures et les méthodes relatifs aux fonds déboursés du compte spécial.

E. The government of the exporting country shall have the right at reasonable times to inspect projects and inspect and audit records, procedures, and methods pertaining to the disbursements made from the special account.

F. S'il reste des fonds dans le compte spécial à la fin du programme énoncé à l'Annexe B, le Gouvernement du pays importateur les utilisera pour financer les mesures d'auto-assistance stipulées à la Rubrique V, Partie II de l'Accord, et/ou les activités de développement économique stipulées à la Rubrique VI, Partie II de l'accord, selon ce dont conviendront les deux gouvernements.

F. If currencies remain in the special account after completion of the program set forth in Annex B, the government of the importing country shall use the remaining currencies for the self-help measures specified in Item V of Part II of the agreement and/or for such economic development purposes set forth in Item VI of Part II of the agreement as the two governments may agree.

G. Chaque année, à une date convenue par les deux gouvernements avant la signature de l'accord, des représentants des parties se réuniront, dans un lieu mutuellement agréé, pour traiter et faire le bilan de l'état d'avancement du Programme Alimentaire pour le Développement, examiner toute modification et amélioration, et déterminer les quantités et types de produits qui seront financés aux termes du présent accord pendant l'année en cours durant laquelle se déroule le Programme Alimentaire pour le Développement.

G. Annually, at such times as the two governments have agreed prior to signing this agreement, representatives of the parties will meet in a place mutually agreed upon to discuss and review the progress of the Food For Development Program, to consider modification and improvements, and to determine the amounts and kinds of commodities to be financed under this agreement during that year of the Food For Development Program.

CHAPITRE IV. EXECUTION DU PROGRAMME ALIMENTAIRE POUR LE DEVELOPPEMENT

A. Le Programme Alimentaire pour le Développement, qui est plus amplement décrit à l'Annexe B, comportera les activités du Gouvernement du pays importateur, conçues pour répondre aux besoins du pays en vivres céréaliers, pour donner une nouvelle orientation à la production alimentaire et à la politique des prix dans le cadre de la stratégie du Gouvernement, visant à assurer un approvisionnement national suffisant en denrées alimentaires, et pour mobiliser les ressources en monnaie locale en vue de permettre le développement ininterrompu du secteur traditionnel sénégalais. Un complément d'information sur le Programme Alimentaire décrit ci-dessus figure à l'Annexe B.

B. De temps à autre, les parties auront recours à des Lettres d'Exécution mutuellement agréées pour confirmer et consigner leur accord mutuel sur les aspects de la mise en oeuvre du présent accord. Les Lettres d'Exécution ne pourront servir à apporter des amendements au texte du présent accord.

ITEM IV. IMPLEMENTATION OF THE FOOD FOR DEVELOPMENT PROGRAM

A. The Food For Development Program, which is further described in Annex B, will consist of activities of the government of the importing country designed to meet the country's foodgrain requirements, to redirect food production and pricing policies within the context of the government's national food security strategy, and to mobilize local currency resources for uninterrupted development of the Senegalese traditional sector. Annex B amplifies the above description of the Food For Development Program.

B. From time to time, the parties will use jointly agreed upon implementation letters to confirm and record their mutual understanding on aspects of the implementation of this agreement. Implementation letters will not be used to amend the text of this agreement.

C. Afin de négocier et d'appliquer les Lettres d'Exécution, le Gouvernement du pays importateur se fera représenter par la personne occupant la fonction de Ministre de l'Economie et des Finances, ou en assurant l'intérim, et le pays exportateur se fera représenter par la personne occupant la fonction d'Ambassadeur des Etats-Unis, ou assurant l'intérim, ces personnes pouvant désigner chacune, au moyen de notifications écrites, des représentants supplémentaires. Chaque partie transmettra à l'autre le nom de ses représentants ainsi qu'un spécimen de leur signature. Chaque partie pourra accepter, dans la mesure où elle sera dûment autorisée, toute Lettre d'Exécution signée par n'importe lequel desdits représentants de l'autre partie, tant qu'elle n'aura pas reçu un avis écrit de la révocation du mandat du représentant en question.

C. For the purpose of negotiating and executing implementation letters, the government of the importing country will be represented by the individual holding or acting in the office of the Minister of Economic Affairs and Finance and the exporting country will be represented by the individual holding or acting in the office of the U.S. Ambassador, each of whom, by written notice may designate additional representatives. Each party will provide the other party with the names of its representatives and their specimen signatures, and may accept, as duly authorized, any implementation letter signed by any one of such representatives of the other party prior to receipt of written notice of revocation of their authority.

D. Pendant la période de réalisation du Programme Alimentaire pour le Développement, le Gouvernement du Sénégal veillera à ce que les fonds publics, autres que les fonds disponibles dans le cadre du Programme Alimentaire pour le Développement qui sont affectés aux organismes intéressés du Gouvernement du Sénégal, ne diminuent pas en termes réels, c'est-à-dire compte tenu de l'inflation.

D. During the period of execution of the Food For Development Program the GOS will assure that public sector expenditure, apart from those made available under the Food For Development Program, for those GOS agencies involved will not decrease in real terms, i.e., adjusted for inflation.

CHAPITRE V. SUSPENSION DE L'ACCORD

Chaque année, le Gouvernement du pays exportateur examinera la façon dont le présent accord aura été mis en oeuvre par le Gouvernement du pays importateur, et les résultats obtenus par celui-ci. Au cas où le Gouvernement du pays exportateur constaterait que l'essentiel des dispositions du présent accord n'était pas respecté, tout financement ultérieur dans le cadre de l'accord serait suspendu, soit jusqu'à la fin de

ITEM V. SUSPENSION OF THE AGREEMENT

The government of the exporting country shall annually review the performance and implementation of this agreement by the government of the importing country. If the government of the exporting country finds that the provisions of this agreement are not being substantially met, no further financing under this agreement shall be extended until the end of the following United States fiscal year or until the situation is remedied, whichever

l'exercice fiscal américain suivant, soit jusqu'à ce que la situation soit corrigée, selon ce qui adviendrait en premier, à moins que ledit non-respect des dispositions ne résulte de circonstances indépendantes de la volonté du Gouvernement du pays importateur.

occurs first, unless the failure to meet the provisions is due to unusual circumstances beyond the control of the government of the importing country.

CHAPITRE VI. DESCRIPTION DU PROGRAMME

Le Programme Alimentaire pour le Développement adopté aux termes du Titre III de la Loi PL-480 est conçu comme suit:

Un programme de trois ans, d'une dotation totale approximativement équivalente en Francs CFA à 21.000.000 dollars américains et prévoyant les activités décrites à l'Annexe A, Rubrique IV ci-dessus et à l'Annexe B.

Au cours de la première année, le Gouvernement du Sénégal mettra l'accent sur les activités de la première année du Titre III, décrites à l'Annexe B du présent accord. En fonction de l'expérience acquise et des critères d'évaluation et de comparaison mis au point au cours de ladite année, des améliorations seront apportées au programme au cours des années suivantes.

ITEM VI. PROGRAM DESCRIPTION

The PL-480, Title III, Food For Development Program calls for:

A three-year program with an approximate total value of U.S. dollars 21,000,000 in Francs CFA to carry out the program described in Annex A, IV above and as further delineated in Annex B.

During the first year, the GOS will concentrate of Title III first year activities described in Annex B of this agreement. Based on experience learned and comparative evaluation criteria developed during that year, improvement will be made for programming in subsequent years.

[1] 68 Stat. 455; 7 U.S.C. § 1727. [Footnote added by the Department of State.]

ANNEXE B

DESCRIPTION DU PROGRAMME

CHAPITRE I. BUT GENERAL

Le but de ce Programme Alimentaire pour le Développement est d'aider le Gouvernement du Sénégal (GS) à accroître la production nationale de céréales et diminuer l'importation de riz, donner les encouragements et moyens nécessaires au renforcement de l'impact du processus de développement sur les pauvres du monde rural. Ceci sera fait grâce à la fourniture des fonds en monnaie locale pour:

A. Aider à la réalisation des activités de développement agricole et rural supplémentaires, destinées à améliorer la production, le stockage, ainsi que la commercialisation des produits agricoles.

B. Aider à la mise en valeur et conservation des ressources naturelles.

C. Aider à faire des études qui permettront au GS de re-orienter les politiques de production alimentaire, de prix et de commercialisation.

CHAPITRE II.. OBJECTIFS DU PROGRAMME

L'approbation de ce programme Titre III de 3 ans est basée sur les analyses et justifications présentées dans la "Proposition de Programme-Sénégal- Programme Alimentaire pour le Développement PL-480 Titre III, AF 1980-1982", en date de février 1980.

Le programme Titre III accordera environ $21 million au Sénégal, étalés sur une période de trois ans (AF 1980-1982).

ANNEX B

PROGRAM DESCRIPTION

ITEM I. OVERALL GOAL

The goal of this Food for Development Program is to assist the Government of Senegal (GOS) to increase domestic cereals production, to reduce rice imports and provide the incentive and means necessary to strengthen the impact of the development process on the rural poor. This will be achieved by providing local currency to:

A. Assist in the implementation of additional agricultural and rural development activities which improve production, storage and marketing of agricultural commodities.

B. Assist in the development and conservation of natural resources.

C. Assist in carrying out studies which will enable the GOS to redirect food production, pricing and marketing policies.

ITEM II. PROGRAM OBJECTIVES

The approval for this 3-year Title III program in Senegal is based on the analyses and justification presented in the "Program Proposal-Senegal- Food for Development Program PL-480 Title III, FY 1980-1982", dated February 1980.

The Title III program will provide Senegal with approximately $21,000,000 over a three-year period (FY 1980-1982).

Le Gouvernement du Sénégal est d'accord pour que les fonds en monnaie locale obtenus de la vente des denrées du Titre III soient utilisés pour couvrir les frais locaux de nouveaux projets de développement, dans le secteur rural, dûment approuvés, qui ne pouvaient être financés autrement.

Les actions de politique alimentaire/agricole ci-après, que le GS continuera à exécuter pour la durée du Programme Titre III, donnent un cadre important dans lequel les projets approuvés peuvent avoir le plus grand impact:

- La décentralisation du processus de développement par le renforcement du rôle des Agences Régionales de Développement;

- Le renforcement du rôle des coopératives dans le processus de développement;

- Une action concertée de gestion et de conservation des ressources naturelles du Sénégal;

- Un examen des politiques sénégalaises de commercialisation et des prix, en vue d'obtenir les meilleurs résultats pour son programme de diversification agricole.

CHAPITRE III. DESCRIPTION DU PROGRAMME

A. Etudes des Politiques, Description des Projets, et Données de Base des Evaluations.

Le Gouvernement du Sénégal est d'accord pour que les fonds en monnaie locale obtenus de la vente des denrées du Titre III soient utilisés pour couvrir les frais locaux de nouveaux projets de développement précis, convenus d'un commun accord, qui, autrement, n'auraient pas obtenu un financement. Tous les

The Government of Senegal agrees that local currencies generated by the sales of Title III commodities will be used to cover local costs of specifically approved new development projects in the rural areas which otherwise could not have been funded.

The following food/agricultural policy measures which GOS will continue to implement during the life of this Title III program, provide an important framework within which the approved project activities can have their greatest impact:

- The decentralisation of the development process through strengthening the role of the Regional Development Agencies;

- Strengthening the role of cooperatives in the development process;

- A concerted effort to manage and conserve Senegal's natural resources;

- A review of Senegalese marketing and pricing policies to obtain optimum results in its agricultural diversification program.

ITEM III. PROGRAM DESCRIPTION

A. Policy Studies, Project Description, and Evaluation Benchmarks.

The Government of Senegal agrees that local currencies generated by the sale of the Title III commodities will be used to cover local costs of specifically agreed upon new development projects which otherwise would not have been funded. All of the proposed projects

projets proposés ont été élaborés et seront exécutés par des organismes de l'Etat Sénégalais sur une période de 3 ans (AF 1980-1982) comme suit:

	VALEUR TOTALE EN MILLION DE DOLLARS
1. Etudes de la Politique Agricole	0,900
2. Magasins de Stockage des Cooperatives Locales	4,000
3. Recherche Scientifique Décentralisée	4,750
4. Ecoles Techniques Rurales	2,040
5. Reboisement et Fixation des Dunes	6,910
6. Fonds de Développement pour les Activités Rurales/Agricoles	2,000
7. Gestion du Programme	0,400
TOTAL	21,000

Les activités des AF 1980-82 ont un plan d'exécution provisoire défini aux tableaux B.1 à B-8. Le programme Titre III fournira des fonds pour les projets définis dans la proposition du programme. Ces projets ont été identifiés, analysés et choisis par le GS et le GEU sur la base de leur impact escompté sur le développement des secteurs traditionnels de l'agriculture au Sénégal. Les descriptions détaillées ci-jointes des projets donnent des renseignements supplémentaires et sont partie intégrale du présent accord.

1. Etudes de la Politique Agricole

L'objectif de l'étude de la politique à mener au cours de la durée du Programme Titre III est

have been designed and will be carried out by line institutions in Senegal over a 3-year period (FY 1980-1982) and are as follows:

	TOTAL U.S. DOLLARS MILLION
1. Agricultural Policy Studies	.900
2. Local Cooperative Storage	4.000
3. Decentralisation of Research	4.750
4. Rural Technical Schools	2.040
5. Reforestation and Dune Fixation	6.910
6. Development Fund for Rural/Agricultural Activities	2.000
7. Program Management	.400
TOTAL	21.000

The FY 1980 through FY 1982 activities have a tentative implementation schedule outlined in Tables B.2-8. The Title III program will provide resources for projects outlined in the program proposal. These projects were identified, analyzed and selected by the GOS and USG on the basis of their expected impact on developing traditional agriculture sectors in Senegal. The attached detailed project description provide additional information and are an integral part of this agreement.

1. Agricultural Policy Studies

The objective of the policy studies to be conducted during the life of the Title III

de fournir aux responsables sénégalais un cadre systématisé de collecte et d'analyse des données sur quelques-uns des problèmes de développement agricole les plus urgents, dans les meilleurs délais.

Le programme d'activités de recherche et données de base ci-après, sous réserve d'une évaluation annuelle, sera exécuté par le GS:

ETUDE No.1: (A) Examiner, évaluer et préparer un rapport de synthèse sur la politique des prix agricoles au Sénégal. (B) Evaluer les secteurs dans lesquels des recherches supplémentaires sont nécessaires et élaborer, par ordre de priorité, un programme d'étalage dans le temps, pour mener de telles recherches. (C) Aider le GS à appliquer le modèle SONED/SEMA pour la fixation des prix lors des campagnes agricoles 1980/81 et 1981/82, évaluer son efficacité, et réviser selon les besoins.

ETUDE No.2: (A) Examiner, évaluer et faire une synthèse de la documentation pertinente sur le fonctionnement des marchés céréaliers du Sénégal, aussi bien traditionnel qu'officiel. (B) Evaluer les secteurs dans lesquels des recherches supplémentaires sont nécessaires et élaborer, par ordre de priorité, un plan d'étalage dans le temps, pour mener ces recherches. (C) Elaborer un modèle de structure analytique des systèmes de production, de commercialisation et de distribution des produits céréaliers; identifier en particulier les contraintes institutionnelles et infrastructurales qui freinent l'accroissement de la production nationale et de la commercialisation.

program is to provide systematic fact-finding and analysis for Senegalese policy-makers on some of the most urgent agricultural development questions at as early a date as possible.

The following schedule of research activities and benchmarks, subject to annual evaluation, will be undertaken during this agreement by the GOS:

STUDY NO.1: (A) Review, evaluate and prepare summary synthesis of relevant literature on Senegalese agricultural pricing policies. (B) Evaluate areas where further research is required and develop prioritized time-phased plan for conducting such research. (C) Assist the GOS to implement the SONED/SEMA model for price determination in the 1980/1981 and 1981/1982 agricultural campaigns, evaluate its effectiveness and revise as needed.

STUDY NO.2: (A) Review, evaluate and summarize relevant literature on functioning of Senegalse foodgrain markets both traditional and official. (B) Evaluate areas where further research is required and develop a prioritized time-phased plan for conducting such research. (C) Develop an analytical market structure model of the foodgrain production, marketing and distribution systems; in particular identify institutional and infrastructural constraints on the expansion of domestic food production and marketing.

ACTIVITES AU COURS DES ANNES

Les études des prix et de commercialisation demandées ci-dessus représentent un consensus des recherches les plus urgentes, orientées vers la politique nécessaire dans ces domaines.

Première Année (AF 1980):

(A) Politique des Prix: application et perfectionnement de l'analyse SONED/SEMA sur la fixation des prix sur les céréales produites et commercialisées au Sénégal.

(B) Politique du Marché: élaboration d'un modèle analytique des structures du marché, étude et analyse de la campagne de commercialisation des céréales 1978/79.

Deuxième Année (AF 1981):

(A) Investissements Agricoles: élaborer un modèle analytique destiné à l'évaluation des principaux investissements sénégalais en production céréalière.

(B) Politique du Marché: faire une étude sur les projections du commerce inter-régional des céréales pour les dix prochaines années.

Troisième Année (AF 1982):

En ce qui concerne la troisième année, les activités seront décidées après examen des résultats et progrès réalisés dans l'exécution des études de la politique de première et de deuxième années.

2. Magasins de Stockage des Cooperatives Locales

Activités de Première Année (AF 1980):

l'ONCAD passera un marché pour la construction de 100 magasins de stockage en dur, gérés par les coopératives, à des sites convenus

YEAR ACTIVITIES

The studies called for above in pricing and marketing represent a consensus of the most urgently needed policy-oriented research in these fields.

First Year (FY 1980):

(A) Price Policy: application and refinement of the SONED/SEMA price modeling analysis on cereals produced and marketed in Senegal.

(B) Market Policy: development of an analytical market structures model; study and analysis of the 1978/1979 cereals marketing campaign.

Second Year (FY 1981):

(A) Agricultural Investments: develop an analytical model for evaluating major Senegalese cereals production investments.

(B) Market Policy: complete a study of inter-regional grain trade to be anticipated over the next ten years.

Third Year (FY 1982):

For the third year, activities will be determined after a review of the results and the progress made in implementing first and second year policy studies.

2. Local Cooperative Storage

First Year Activities (FY 1980):

ONCAD will contract for the construction of 100 cooperative. managed masonry warehouses at sites jointly agreed upon by

d'un commun accord entre le GS et le GEU, dans des zones réorganisées en Communautés Rurales, et où de tels magasins permèttront une production accrue et compléteront les magasins centraux de stockage de céréales du GS, du GEU et des autres donateurs, qui sont en cours de construction ou déjà achevés.

Le coût de chaque magasin est estimé à $40.000 y compris les fonds pour la surveillance des travaux. 50 magasins environ seront construits au cours de la première année.

Activités de la Deuxième Année (AF 1981):

Il est prévu que 75 magasins seront terminés vers la fin de la deuxième année.

Activités de la Troisième Année (AF 1982):

Les réalisations de la troisième année seront déterminées après examen des résultats et progrès réalisés au cours de la première et de la deuxième années. Cependant, on prévoit la construction de 25 magasins à la fin de la troisième année.

3. Décentralisation de la Recherche

Le Gouvernement du Sénégal applique une recommandation de l'IADS (Service International pour le Développement Agricole) pour décentraliser ses opérations de recherche par la création de six centres régionaux de recherche basés dans des zones écologiques différentes. L'objet de cette recommandation est de rapprocher davantage les chercheurs des paysans, le tout tendant à résoudre les problèmes de production. Le projet Titre III accordera des fonds pour le financement des infrastructures et de l'équipement pour l'ISRA (Institut Sénégalais de Recherche Agricole) dans trois centres de recherche, quatre stations, et financera l'infrastructure nécessaire pour les études socio-économiques

GOS and USG in areas reorganized under Rural Community Programs and where the impact of such warehouses will best support increased production and best integrate with GOS, USG and other donors central cereals warehouses now being constructed or completed.

The cost of each warehouse is estimated at $40,000 and includes funds for supervisory engineering. Approximately 50 warehouses will be completed the first year.

Second Year Activities (FY 1981):

It is expected that 75 warehouses will be completed by the end of the second year.

Third Year Activities (FY 1982):

Accomplishments in the third year will be determined after a review of the results and progress made in the first and second years. However, it is expected that 25 warehouses will be completed by the end of the third year.

3. Decentralization of Research

The Government of Senegal is implementing an IADS (International Agriculture Development Service) recommendation to decentralize its research operations through the creation of six research regions in Senegal based on distinctly different ecological conditions. The purpose of this recommendation is to provide closer contact of researchers with farmers to solve production-oriented problems. The Title III project will provide finances for infrastructural and equipment support to ISRA (Institut Sénégalais de Recherche Agricole) at three research centers, four research stations, and provide infrastructure necessary for

au nouveau siège de l'ISRA à St. Louis.

Activités de la Première Année (AF 1980):

Fournir un tiers du coût total des infrastructures, de l'équipement et des frais de fonctionnement du Département Socio-Economique, du Département des Systèmes Culturaux et des 4 stations de recherche de l'ISRA.

Activités de la Deuxième Année (AF 1981):

(les mêmes que ci-dessus)

Activités de la Troisième Année (AF 1982):

(les mêmes)

4. Ecoles Techniques Rurales

En entreprenant des travaux de réfection des infrastructures existantes, en achetant du matériel et en améliorant le programme d'études de l'Ecole Nationale d'Economie Appliquée (ENEA) et de l'Ecole Nationale des Cadres Ruraux (ENCR), le Ministère de l'Enseignement Supérieur exécutera ce projet en vue d'aider à former un nombre suffisant de cadres techniques moyens, qui sont engagés par les organismes de développement rural et services techniques s'occupant des problèmes du monde rural.

Activités de la Première Année (AF 1980):

Construction du dortoir de l'ENEA, fourniture de 50% du matériel et équipement de l'ENCR.

Activités de la Deuxième Année (AF 1981):

Construction du bâtiment des classes/centre de documentation de l'ENEA, fourniture de 50% du matériel et de l'équipement de l'ENCR.

Activités de la Troisième Année (AF 1982):

Restauration de l'ENEA.

socio-economic studies at the new ISRA headquarters at St.Louis.

First Year Activities (FY 1980):

Provide one-third of the infrastructure, equipment and operating costs for the ISRA Economics and Sociology Department, Farming Systems Department, and to the four research stations.

Second Year Activities (FY 1981):

(Same)

Third Year Activities (FY 1982):

(Same)

4. Rural Technical Schools

By upgrading facilities, purchasing equipment, and improving curricula for the National School of Applied Economics (ENEA) and the National School for Rural Technical Personnel (ENCR), the Ministry of Higher Education will carry out this project to help establish sufficient numbers of adequately trained middle-level technicians who staff the rural development agencies and technical services which service the rural population.

First Year Activities (FY 1980):

Construct ENEA dormitory, provide 50 percent materials and equipment for ENCR.

Second Year Activities (FY 1981):

Construct ENEA teaching unit/documentation center, provide 50 percent materials and equipment for ENCR.

Third Year Activities (FY 1982):

Renovate ENEA.

5. Reboisement et Fixation des Dunes

La Direction des Eaux et Forêts, du Ministère du Développement Rural, reboisera 3.700 ha sur une bande de dunes de sable de 73 kilomètres, entre Dakar et St.Louis, au large des marigots qui ont un bon rendement de culture maraîchère. Cette action aidera à freiner la progression du sable, protègera les villages dans cette zone, fournira du bois de chauffe, des fruits et des noix à quelques 9.000 villageois, réduira l'érosion des sols fertiles, et créera une aire d'habitat aux oiseaux et aux petits animaux.

Activités de la Première Année (AF 1980):

Plantation de 400 hectares.

Activités de la Deuxième Année (AF 1981):

Plantation de 1.450 hectares.

Activités de la Troisième Année (AF 1982):

Plantation de 1.850 hectares.

6. Fonds de Développement Pour les Activités Rurales et Agricoles (FDARA)

En vue d'appuyer son objectif, qui est d'encourager la participation locale au processus de développement, le GS, par l'intermédiaire du Comité de Gestion, gèrera un fonds de développement d'un million de dollars par an au cours de la deuxième et de la troisième années du présent accord, pour soutenir des petits projets locaux destinés à conserver la base des ressources naturelles, et à améliorer la production, le traitement, la distribution et la commercialisation des produits alimentaires. Ces petits projets sont destinés à encourager l'initiative locale, à favoriser les paysans des petites exploitations et à renforcer le rôle des communautés rurales et des coopératives dans la région du Sine-Saloum.

5. Reforestion and Dune Fixation

The Ministry of Rural Development, Water and Forest Service will plant 3,700 hectares on 73 kilometers of sand dunes between Dakar and St.Louis on the seaward edge of some highly productive vegetable growing basins. This action will assist in halting the movement of sand, protect villages in the area from sand, provide a source of fuelwood, fruit and nuts to the 9,000 villagers, reduce erosion of fertile soil, and create a habitat for birds and small animals.

First Year Activities (FY 1980):

Plant 400 hectares.

Second Year Activities (FY 1981):

Plant 1,450 hectares.

Third Year Activities (FY 1982):

Plant 1,850 hectares.

6. Development Fund For Rural/ Agricultural Activities (DFRAA)

To support the GOS goal of encouraging local participation in the development process, the GOS, through its Management Commission, will administer a development fund of one million dollars per year during the second and third year of this agreement to support small, locally inspired projects designed to conserve the natural resources base, and to improve food production, processing, distribution and marketing. These small projects are intended to encourage local initiatives, benefit small farmers, and strengthen the role of communes and cooperatives in the Sine-Saloum Region of Senegal. The types of projects

Les types de projets pouvant bénéficier du financement dans le cadre du Fonds de Développement pour les Activités Rurales/Agricoles sont précisés dans la Proposition de Programme (p. 156). Avant une affectation quelconque de fonds du Compte Spécial du Titre III à ce programme, le Comité de Gestion doit se mettre d'accord sur les critères spécifiques tels que définis dans la Proposition (p. 156-7). Aux fins du FDARA, les fonds en monnaie locale déboursés du Compte Spécial du Titre III (conformément aux procédures convenues avec le GEU) et versés aux comptes de projets FDARA (devant être ouverts par le GS en accord avec le GEU), pourront être imputés aux engagements de dettes du Titre I. Des plans de réalisation précis pour les AF 1980, 1981 et 1982 seront définis au cours de l'exercice 1980, ou avant le déboursement des fonds du Compte Spécial du Titre III.

Activités de la Première Année (AF 1980):

Former le Comité de Gestion ainsi que son Secrétariat pour les opérations de gestion de fonds, améliorer les critères d'évaluation, établir des contrats standards, élaborer les mécanismes de suivi et d'évaluation, et élaborer un calendrier/plan provisoire des activités à financer au cours des AF 1981 et AF 1982.

Activités de la Deuxième et de la Troisième Années (AF 1981 - AF 1982):

Basé sur l'examen du progrès réalisé au cours de la première année d'exécution du programme, des fonds seront alloués à des projets approuvés du DFARA.

eligible for financing under the DFRAA are specified in the Program Proposal (page 156). Before any funds are transferred from the Title III Special Account for this program, the Management Commission, in consultation with the USG representatives, must agree on the specific criteria as indicated in the proposal (p. 156-157). For DFRAA purposes, local currency funds disbursed from the Title III Special Account (in accordance with procedures agreed upon with the USG) into the approved DFRAA project accounts (to be established by the GOS in agreement with the USG) will be eligible for offeset against the Title I indebtedness. Specific implementation targets for FY 1980, 1981 and 1982 will be established in FY 1980 or before disbursing funds from the Title III Special Account.

First Year Activities (FY 1980):

Train the Management Commission and its Secretariate in the operation of the Fund; refine evaluation criteria, develop standard contracts, elaborate monitoring and evaluation mechanisms, and develop a tentative schedule/plan of activities to be financed in FY 1981 and FY 1982.

Second and Third Year Activities (FY 1981-1982):

Based on the review of the progress made during the first year of program implementation, funds will be made available for approved projects under DFRAA.

B. Complémentarité du Titre III

Les projets à entreprendre viendront s'ajouter, mais ne les remplaceront pas, aux activités de développement entreprises par le GS lui-même, ou par le GS conjointement avec d'autres aides bilatérales et/ou multilatérales. Les projets décrits ci-dessus ne seront pas exécutés en l'absence des moyens fournis aux termes du présent accord.

Plus précisément, les problèmes financiers et ceux relatifs au développement, rencontrés par le GS, se rapportent à l'exécution des projets. De par l'insuffisance du personnel, des moyens financiers, des infrastructures et du transport, il y a peu de projets de développement qui atteignent à leur achèvement le niveau de productivité ou les avantages sociaux souhaités. Les obstacles qui se sont présentés au GS pour l'exécution des projets ont été davantage compliqués par l'intérêt grandissant et l'aide accordée par les donateurs aux projets d'investissement. Dans le passé, les donateurs avaient accordé des fonds au GS pour soutenir son budget et pour les projets modernes d'investissement intensif. Le GS n'a pas pu mobiliser des revenus suffisants sur le plan intérieur pour soutenir le fonctionnement et les charges financières croissantes des nouveaux projets et de ceux en cours.

C. Equivalence

(1) Pour l'application du présent accord, il est nécessaire que les fonds en monnaie locale soient égaux à la valeur en dollars du prêt accordé par la CCC pour les denrées importées aux termes du présent

B. Title III Additionality

The projects which will be undertaken will be in addition to and will and not replace any development activities being undertaken by the GOS itself or by the GOS in conjunction with other bilateral and/or multilateral aid. The projects described herein would not be implemented without the resources provided under this agreement.

More specifically, the GOS developmental and financial difficulties are reflected in problems of project implementation. Due to the lack of staff, funds, facilities and transportation, few development projects are being completed at desired levels of productivity or social benefits. The constraints to GOS project implementation have been compounded by increased donor's interest in and assistance for targeted capital formation projects. In the past international donors provided funds to the GOS for budget support and modern capital-intensive projects. The GOS has not been able to mobilize sufficient domestic revenue to support the operation and growing burden of new and on-going projects.

C. Equivalency

(1) For the purpose of this agreement, it is required that the local currency generations be equal to the dollar value of the credit extended by CCC for food commodities shipped under

accord. Le GS déposera dans un compte spécial l'équivalent en monnaie locale de la valeur en dollars américains du prêt accordé par la CCC pour les denrées du Titre III.

(2) Toute différence entre la valeur des denrées vendues en monnaie locale et la valeur des denrées importées sera comblée par le GS. Le dépôt des fonds en monnaie locale par le GS, provenant de la vente des denrées et la valeur des denrées importées n'entraîneront pas une réduction ou substitution de toutes activités de développement en cours d'exécution par le GS, soit dans son propre budget de développement ou dans le cadre d'autres programmes d'aide bilatérale ou multilatérale.

D. Plan de Fourniture des Denrées

Ce programme pluri-annuel de Titre III prévoit que le Sénégal importe des denrées du Titre I d'un montant de $7 millions (sept millions de dollars) par an ou $21 millions (vingt et un millions de dollars) pour une période de trois ans (AF 1980-1982).

CHAPITRE IV. MODALITES D'EXECUTION

A. Généralités

1. Le progamme sera exécuté par le Gouvernement du Sénégal avec la coordination globale d'un Comité Sénégalais de Gestion, composé de représentants des Ministères de l'Economie et des Finances, du Plan et de la Coopération, du Commerce, du Développement Rural, de l'Enseignement Supérieur, du Secrétariat d'Etat à la Recherche Scientifique et Technique et du Secrétariat d'Etat aux Eaux et Forêts.

the agreement. The GOS will deposit in a special account the local currency equivalent of the U.S. dollar value of the CCC credit provided for the Title III commodities.

(2) Any difference from the value of the commodities sold for local currency and value of commodities shipped must be made up by the GOS. The deposit by GOS of local currency generated from sales of the commodities and the value of commodities shipped shall not result in reduction or displacement of any development activities being undertaken by the GOS, either in tis own development budget or under programs of bilateral or multi-lateral aid.

D. Commodity Schedule

This multi-year Title III program calls for Senegal to import Title I commodities valued at dollars seven (7) million per year, or U.S. dollars twenty one (21) million over three years (FY 1980-1982).

ITEM IV. IMPLEMENTATION PROCEDURES

A. General

1. The program will be implemented by the Government of Senegal under the overall coordination of a Senegal Management Commission consisting of representatives from the Ministry of Economic Affairs and Finance, Ministry of Plan and Cooperation, Ministry of Commerce, Ministry of Rural Development, Ministry of Higher Education, Secretariate of State for Scientific and Technical Research, and Secretariate of State for Water and Forest.

Le Comité de Gestion sera épaulé par un Secrétariat permanent, travaillant à plein temps, qui sera chargé de la préparation des rapports périodiques et spéciaux, de la rédaction du rapport annuel, de l'approbation du système d'évaluation de chaque projet; d'aider dans l'application du système d'évaluation ainsi que toutes autres fonctions déléguées par le Comité de Gestion.

2. Le Comité de Gestion se réunira une fois par an pendant toute la durée de l'Accord du Programme Alimentaire pour le Développement. Le GS et le GEU fixeront la quantité exacte et la valeur des denrées PL-480 devant être fournies chaque année. Le GS et le GEU examineront deux fois par an le progrès de chaque projet et prendront les dispositions nécessaires pour surmonter les obstacles à la réalisation des objectifs du projet.

B. Les Responsabilités du Gouvernement du Sénégal

1. Les fonds alloués à chaque projet aux termes du présent accord sont destinés à être utilisés pour couvrir les frais d'administration et de gestion qui sont nécessaires à l'exécution réussie de ces projets. Il incombe au Comité de Gestion de veiller à ce que des moyens administratifs et de gestion suffisants soient fournis à chaque projet aux termes du présent accord. Par conséquent, le Comité de Gestion prendra les dispositions nécessaires pour faire en sorteque des fonds suffisants soient alloués aux organismes appropriés chargés de la réalisation des activités de développement.

2. Le GS, par l'intermédiaire du Comité de Gestion, entreprendra des activités, de 1980 à 1982, aux termes de l'Annexe B, CHAPITRE III, alinéas A et B.

The Management Commission will be supported by a full time Secretariate which will be responsible for preparing periodic and special reports; draft the annual report; approve evaluation systems for each project; assist in the implementation of the evaluation systems; and other duties as delegated by the Management Commission.

2. Once each year throughout the life of the FFD Agreement, the GOS and the USG will agree on the specific quantity and value of PL-480 commodities to be supplied during that year. Twice each year the GOS and USG will review the progress of each project and take appropriate means to resolve problems inhibiting the achievement of project goals.

B. Government of Senegal Responsibilities

1. The funds budgeted for each project under this agreement are intended to be utilized to cover any administrative and managerial costs, which are nécessary to properly implement these projects. It is the Management Commission's responsibility to assure that adequate administrative and managerial resources will be provided for each project under this agreement. Accordingly, the Management Commission will take necessary steps to assure adequate funds are distributed to appropriate agencies carrying out development activities.

2. The GOS, through the Management Commission, will carry out 1980 through 1982 activities under Annex B ITEM III, Program Description, paragraphs A and B.

3. Le Comité de Gestion présentera à l'USAID des rapports portant sur l'expédition et la livraison des denrées, le respect des dispositions de l'Accord, l'exécution des projets et les décaissements.

4. Le rapport de livraison des denrées doit être soumis dans un délai de 20 jours après l'arrivage. Le rapport trimestriel sur le respect des dispositions de l'accord sera soumis le 15 des mois d'Octobre, Janvier, Avril et Juillet. Le rapport trimestriel sur les activités financières et les progrès sera présenté le quinze des mois de Novembre, Février, Mai et Août. Le rapport annuel des activités financières et du progrès sera présenté le 20 Août et comprendra les éléments suivants:

(A) La Comptabilisation des fonds générés et leur utilisation;

(B) L'état actuel des plans d'exécution des projets/objectifs;

(C) Evaluation de l'impact des projets sur le groupe visé/bénéficiaires;

(D) Mesures prises pour améliorer l'exécution dea projets.

5. Le GS tiendra des dossiers complets sur les projets pour un minimum de trois and après l'achèvement du programme.

C. Contrôle et Responsabilités du Gouvernement des Etats-Unis

Le Gouvernement des Etats-Unis contrôlera comme suit:

a. Un contrôle technique de routine, selon les besoins, sera maintenu entre le Secrétariat de la Commission de Gestion, les différents Ministères intéressés et les services de l'USAID intéressés.

3. The Management Commission will submit reports to the USAID on commodity arrivals, compliance, project implementation and disbursements.

4. The shipping and arrival report will be submitted within twenty days of commodity arrival. The quarterly compliance report will be submitted on the fifteenth day of October, January, April and July. The quarterly financial activity and progress report will be submitted on the fifteenth day of November, February, May and August. The annual financial activity and progress report will be submitted on August 20 and will include the following:

(A) Accounting of funds generated and their use;

(B) Current status of the project implementation/plans/targets;

(C) Assessment of project impact on the target group/beneficiaries;

(D) Course of action taken to improve project implementation.

5. The GOS will maintain adequate records on the project for not less that three years after the completion of the program.

C. USG Monitoring and Responsibilities

The USG will monitor as follows:

a. Routine technical monitoring, as needed, will be maintained between the Secretariat of the Management Commission, the concerned Ministries and the concerned USAID offices.

b. Un contrôle administratif mensuel sera fait par un Comité d'Exécution des Projets de la Mission de l'USAID, composé de représentants de ses différents services intéressés.

c. En consultation avec le GS, le GEU contrôlera tous les aspects définis aux Annexes A et B de l'accord.

d. Les responsabilités du GEU sont indiquées à l'Annexe A, Chapitres A et B, et à l'Annexe B, Chapitre 4.C.

CHAPITRE V. EVALUATION ET CONTROLES FINANCIERS

A. Généralités

1. Conformément à l'Annexe A, Chapitre III, alinéa G, le Gouvernement du Sénégal et le Gouvernement des Etats-Unis feront des évaluations annuelles du Programme Alimentaire pour le Développement, vers le 31 Juillet de chaque année.

2. Aux termes de l'alinéa A.1. ci-dessus, une évaluation formelle du progrès sur les engagements et dispositions définis à l'Annexe B, Chap. I.A,B et C, II, III.A, IV.A, B et C de l'Annexe B seront un facteur déterminant pour décider de la poursuite de l'aide PL-480 Titre III de l'année suivante. L'élaboration et l'application de la méthodologie d'évaluation et des critères qui y sont liés seront des éléments clés dans l'examen des progrès de chaque année du programme Titre III.

3. Les évaluations des projets individuels seront faites conjointement par les représentants du GS et du GEU selon le calendrier indiqué à l'alinéa A.1 ci-dessus.

b. Monthly administrative monitoring will be maintained by a Mission Project Implementation Committee composed of representatives from various concerned USAID offices.

c. In consultation with the GOS, the USG will monitor all aspects set forth in Annexes A and B of this Agreement.

d. The responsabilities of the USG are prescribed in Annex A Item I A and B, and Annex B Item 4.C.

ITEM V. EVALUATION AND AUDITS

A. General

1. As provided in Annex A, Item III, paragraph G, the GOS and the USG will carry out evaluations of the FFD program by July 31 of each year.

2. In the context of paragraph A.I. above, a formal evaluation of progress on the commitments and measures noted in Annex B, Item I.A, B and C,Item II, Item III.A, Item IV.A, and C will be a key factor in deciding on the continuation of the succeeding year's PL-480 Title III assistance. The development and implementation of evaluation methodology and associated criteria will be key items in the review of each year's progress of the Title III program.

3. Individual project evaluations will be carried out jointly by the GOS and USG representatives on a timetable specified in paragraph A.1.above.

4. Chacune des revues et des évaluations annuelles sera complète de façon à permettre aux GS/GEU de disposer d'assez de temps pour les décisions sur la programmation pour l'année suivante.

B. Méthodologie de l'Examen/ Evaluation

Les détails des méthodes à suivre pour l'examen et l'évaluation de chaque projet seront élaborés au cours du processus de revue semestrielle.

8 tableaux doivent être joints à l'Annexe B.

4. Each annual review and evaluation will be completed to provide sufficient time for the USG/GOS programming decisions for the following year.

B. Review/Evaluation Methodology

Details of methods to be used in reviewing and evaluating each project will be worked out during the mid-year review process.

Annex B must include 8 tables.

ANNEXE B

TABLEAU B-1

Résumé du Budget, PL-480 Titre III

PROJETS DU PROGRAMME ALIMENTAIRE POUR LE DEVELOPPEMENT - SENEGAL ($ U.S. 000)

ANNEX B

TABLE B-1

Summary Budget, PL-480 Title III

SENEGAL FOOD FOR DEVELOPMENT PROJECTS (U.S. $000)

	Year 1 1ère A.	Year 2 2ème A.	Year 3 3ème A	Total Total
I. Recettes prévues Approximate Generations	$7,000	$7,000	$7,000	$21,000
II. Allocation aux Projets: Use by Projects:				
- Etude de la Politique Agricole Agricultural Policy Studies	300	300	300	900
- Magasins de Stockage des Coopératives Locales Local Cooperative Storage	2,000	1,000	1,000	4,000
- Décentralisation des Recherches Decentralization of Research	1,520	1,520	1,710	4,750
- Ecoles Techniques Rurales Rural Technical Schools	900	900	240	2,040
- Reboisement et Fixation des Dunes Reforestation and Dune Fixation	2,080	2,180	2,650	6,910
- Fonds de Développement pour les activités rurales et agricoles Development Fund for Rural/ Agricultural Activities	-	1,000	1,000	2,000
Sous-total Sub-total	6,800	6,900	6,900	20,600
Gestion du Programme Program Management	200	100	100	400
TOTAL TOTAL	$7,000	$7,000	$7,000	$21,000

ANNEXE B

TABLEAU B-2

RESUME DES PROJETS

Titre du Projet	Responsabilité de Gestion/Administration	Description du Projet	But du Projet	Coût ($ US million)
Etude de la Politique Agricole	Secrétariat d'Etat à Recherche Scientifique et Technique (SERST)	Ce projet fournira une collecte et analyse des données systématiques aux responsables Sénégalais sur les problèmes de développement agricole les plus urgents dans les domaines des prix, commercialisation et politique des investissements.	1) Politique des Prix - Examiner les documents et publications sur la politique des prix des produits agricoles ; - Voir où une recherche supplémentaire est nécessaire; -Aider le GS à appliquer le modèle SONED/SEMA sur la fixation des prix; - Développer un modèle des structures du marché. 2) Politique du Marché - Examiner les documents et publications; - Voir où une recherche supplémentaire est nécessaire; - Développer un modèle analytique des structures du marché pour les systèmes de production, commercialisation, et distribution des céréales; - Mener une étude et analyse de la Campagne de Commercialisation 1978/79; - Elaborer une étude du commerce inter-régional projeté pour les 10 prochaines années. 3) Politique des Investissements - Examiner et évaluer les documents et publications sur les études économiques des investissements pour le développement de l'irrigation et de la culture sèche;	0,900

TABLEAU B-2(a)

Titre du Projet	Responsabilité de Gestion/Administration	Description du Projet	But du Projet	Coût ($ US million)
Etudes de la Politique Agricole (suite)			- Elaborer un modèle pour l'évaluation des principaux investissements Sénégalais en production céréalière; - Elaborer des études des cas de potentialités d'investissement à partir de niveaux d'investissement différents dans le bassin arachidier et dans un grand bassin du fleuve avec des potentialités d'irrigation	
Magasins de Stockage des Coopératives Locales	Ministère du Développement Rural, ONCAD.	Ce projet est destiné à compléter le réseau d'infrastructures de stockage entre le producteur et le consommateur pour les intrants de production engrais, semences et matériel, et pour la production agricole, les céréales et l'arachide notamment.	Construction de 100 magasins de stockage au niveau de la coopérative.	4,000
Décentralisation des Recherches	Sécretariat d'Etat à la Recherche Scientifique et Technique (SERST) et l'Institut Sénégalais de Recherche Agricole (ISRA)	Soutenir le GS dans ses efforts de décentralisation de la recherche agricole au Sénégal	Département Socio-Economique Construction de logements et bureaux; fourniture de matériel et frais de fonctionnement pour St.Louis, Kolda et Dahra. Département des Systèmes Agricoles Construction de logements et bureaux; fourniture de matériel et frais de fonctionnement pour les centres de Djibelor, Kolda, Dahra, Fansye et Sénégal Oriental. Centres de Recherche Construction de bureaux, logements et une infirmerie pour les centres de recherche de Sefa, Kolda, Dahra, Richard-Toll, Fanaye et NDial, et équipement de ces centres.	4,750

TABLEAU B-2 (b)

Titre du Projet	Responsabilité de Gestion/Administration	Description du Projet	But du Projet	Coût ($ US million)
Ecoles Techniques Rurales	Ministère de l'Enseignement Supérieur	Ce projet aidera à fournir en nombre suffisant des cadres techniques moyens bien formés, affectés aux organismes de développement et services techniques Sénégalais travaillant en milieu rural, par l'amélioration des infrastructures, l'achat de matériel et l'amélioration du programme d'études de deux écoles de formation technique rurale.	E.N.E.A. -Construction d'un dortoir -Construction d'un bâtiment salles de classe/centre de documentation; -Restaurations E.N.C.R. Fourniture de matériel et équipement	2,040
Reboisement et Fixation des Dunes	Ministère du Développement Rural, Direction des Eaux et Forêts	Ce projet est destiné à empêcher le déplacement des dunes de couvrir davantage de terres arables le long de la côte nord-ouest (Niayes) et à protéger les villages de la zone des dunes mouvantes.	1)Fixer une superficie de 1.800 ha de dunes le long d'une bande de 73km entre DaKar et St.Louis. 2)Planter 1.400 ha, côté vent près des marigots très productifs en produits maraîchers. 3)Planter 500 ha de brise-vent autour des villages de la zone.	6,910
Fonds de Développement pour les activités rurales et agricoles	Différents Ministères	Financer des projets de développement rural localement, conçu pour la conservation de la base des ressources naturelles et l'amélioration de la production, traitement, distribution et commercialisation des cultures vivrières; l'augmentation de la production locale des cultures vivrières et de leur consommation, et la diminution de l'importation de céréales. Ces projets sont destinés à encourager l'initiative locale, faire bénéficier les paysans et renforcer le rôle des communautés rurales dans la région du Sine-Saloum	Aider le GS à améliorer la production alimentaire et le revenu des paysans par: -la conservation de la base des ressources naturelles; -l'identification et la solution des problèmes liés à une production accrue et la consommation du mil par les populations rurales et urbaines, avec une attention particulière accordée aux problèmes de traitement, distribution et commercialisation -	2,000

ANNEX B

TABLE B-2

PROJECT SYNOPSIS

Project Title	Management/ Administrative Responsibility	Project Description	Project Target	Cost (US $millions)
Agricultural Policy Studies	Secretariate of State for Scientific Research and Technique (SERST) and Senegal Institute for Agricultural Research (ISRA)	This project provides systematic fact-finding and analysis to Senegalese policy-makers on the most urgent agricultural development questions in the areas of price, market and agricultural investment policy	1) Price Policy - Review literature on agric. price policy; - Determine where further research is required; - Assist GOS to implement SONED/SEMA model for price determination; - Develop market structures model 2) Market Policy - Review literature; - Determine where further research is required; - Develop an analytical market structures model of the foodgrain production, marketing and distribution systems; - Develop a study and analysis of 1978/79 marketing campaign; - Complete a study of inter regional trade anticipated over next ten years. 3) Investment Policy - Review, evaluate literature on econ. studies of investment in irrigation development and rainfed agriculture	.900

TABLE B-2(a)

Project Title	Management/ Administrative Responsibility	Project Description	Project Target	Cost (US $millions)
Agricultural Policy Studies (cont'ed)			- Develop a model for evaluating major Senegalese cereals production investments; - Develop case studies of investment potentials from alternative levels of investment in the Senegal Peanut Basin and in a major river basin with irrigation potential.	
Local Cooperative Storage	Ministry of Rural Development, ONCAD	This project is designed to complete the linkage in a chain of storage facilities between producer and user for agriculture inputs of fertilizer, seed and equipment, and for agric. production, principally cereals and peanuts.	Construct 100 cooperative level warehouses.	4.000
Decentralization of Research	Secretariate of State for Scientific Research and Technique (SERST) and Senegal Institute for Agricultural Research (ISRA)	To support the GOS in its efforts to decentralize agricultural research in Senegal.	Economic and Sociology Department To construct housing and offices; provide equipment and operating costs at St.Louis, Kolda Dahra Farming Systems Department To construct housing and offices; provide equipment and operating costs at Djibelor, Kolda, Dahra, Fanaye and Eastern Senegal. Research Centers Provide offices, houses and one infirmary for research centers at Sefa, Kolda, Dahra, Richard Toll, Fanaye and NDial, and provide equipment for the above.	4.750

TABLE B-2(b)

Project Title	Management/ Administrative Responsibility	Project Description	Project Target	Cost (US $millions)
Rural Technical Schools	Ministry of Higher Education	This project will help to establish sufficient numbers of adequately trained middle-level technicians who staff the Senegalese development agencies and technical services working in rural areas by upgrading facilities, purchasing equipment, improving curricula at two rural technical training schools	ENEA -Construct dormitory -Construct teaching unit documentation center -Make renovations; ENCR Provide materials and equipment	2.040
Reforestation and Dune Fixation	Ministry of Rural Development, Service of Water and Forests	This project is designed to prevent the movement of sand dunes from covering any additional fertile land along Senegal's Northwest coast and to protect villages in the area from shifting sands.	1) Stabilize 1,800 hectares of sand dunes along 73 kilometers between Dakar and St.Louis 2) Planting 1,400 hectares at the windward edge of some highly productive vegetable growing basins. 3) Planting 500 hectares of windbreaks around villages in the region.	6.910
Development-Funds for rural and agricultural activities	Various Ministries	Fund locally conceived agriculture development projects designed to conserve the natural resource base and to improve food production, processing, distribution and marketing to increase indigenous cereals production and consumption and reduce cereals imports. These small projects are intended to encourage local initiative, benefit small farmers, and strengthen the role of rural communes and cooperatives in Sine Saloum.	To assist the GOS in improving food production and farmer income by: - conserving the natural resource base; - identifying and overcoming constraints to increased production and utilization of millet among rural and urban consumers with particular reference to constraints of processing, distribution and marketing.	2.000

TABLEAU B-3

ETUDES DES POLITIQUES AGRICOLES (RAPPORTS)

PLAN D'EXECUTION

TABLE B-3

AGRICULTURAL POLICY STUDIES (REPORTS)

IMPLEMENTATION TARGETS

	Year 1 1ère A.	Year 2 2ème A.	Year 3 3ème A.
Etudes des Prix: Price Studies:			
Rapport d'Exécution du Modèle des Prix SONED/SEMA SONED/SEMA Price Model Implementation Report	1		
Modèle des Structures du Marché Market Structures Model	1		
Etudes de Commercialisation: Marketing Studies:			
Analyse de la Campagne Agricole 1978/79 Analysis 1978/79 Marketing Campaign			1
Projections du Commerce Inter-Régional Inter-Regional Trade Forecast		1	
Etudes des Investissements: Investment Studies:			
Modèle des Investissements de Production Production Investment Model		1	
Potentialités des Investissements: Culture Sèche contre Culture Irriguée Dryland versus Irrigated Investment Potential			1
Alternatives des Investissements: Bassin Arachidier contre Bassin du Fleuve Peanut Basin versus River Basin Investment Alternatives			1

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TABLEAU B-4

MAGASINS DE STOCKAGE DES COOPERATIVES LOCALES

TABLE B-4

LOCAL COOPERATIVE STORAGE

PLAN D'EXECUTION	IMPLEMENTATION TARGETS		
	Year 1 1ère A.	Year 2 2ème A.	Year 3 3ème A.
Construction des Magasins Standards en dur (nombre) Construct Standard Masonry Warehouses (numbers)	50	25	25

TABLEAU B-5

DECENTRALISATION DES RECHERCHES AGRICOLES

TABLE B-5

DECENTRALIZATION OF RESEARCH

PLAN D'EXECUTION	IMPLEMENTATION TARGETS		
	Year 1 1ère A.	Year 2 2ème A.	Year 3 3ème A.
Fournir les infrastructures, l'équipement et les frais de fonctionnement au cours des 3 ans. Provide the infrastructure, equipment and operating costs over 3 years			
Département Socio-Economique: Economics and Sociology Department:			
Construction de 8 logements pour les chercheurs Construct 8 houses for researchers	8		
Construction du siège du Département Construct Departmental Headquarters		1	
Construction d'un bureau et d'un logement à Kolda Construct 1 office and 1 house at Kolda			2
Construction d'un bureau et d'un logement à Dahra Construct 1 office and 1 house at Dahra			2
Equipement et fournitures à St.Louis, Kolda, Dahra Equipment and furnishing at St.Louis, Kolda and Dahra			x
Frais de fonctionnement Operating Costs	- pendant l'exécution du projet- - on-going-		

TABLEAU B-5 (SUITE) TABLE B-5 (CONTINUATION)

Département des Systèmea Agricoles Farming System Department			
Construction d'un magasin de stockage au Sénégal Oriental Construct warehouse in Eastern Senegal			1
Construction de logements et d'un bureau au Sénégal Oriental Construct houses and 1 office in Eastern Senegal		5	
Construction de 4 logements et 7 bureaux à Djibélor, Kolda, Dahra, Fanaye et au Sénégal Oriental Construct 4 houses, 7 offices at Djibélor, Kolda, Dahra, Fanaye and Eastern Senegal	11		
Equipement et matériel Equipment	- pour la durée du projet - - on going -		
Frais de fonctionnement Operating Costs	- pour la durée du projet - - on going -		
Renforcement des Centres de Recherche Develop Research Centers			
Construction d'un bureau et d'un logement Construct 1 office and 1 house	2		
Construction de 3 bureaux Construct 3 offices		3	
Construction d'un bureau, une infirmerie et 9 logements Construct 1 office, 1 infirmary, 9 houses			11
Aménagements du Bassin du Fleuve Sénégal Construct improvements Senegal River Basin			x
Equipement et fournitures pour les infrastructures ci-dessus Equipment and furnishing for above	- pendant la durée du projet - - on going -		

TABLEAU B-6

ECOLES TECHNIQUES RURALES

PLAN D'EXECUTION

TABLE B-6

RURAL TECHNICAL SCHOOLS

IMPLEMENTATION TARGETS

	Year 1 1ère A.	Year 2 2ème A.	Year 3 3ème A.
Construction d'un dortoir à l'ENEA Construct ENEA Dormitory	1		
Construction d'un bâtiment de salles de classe/centre de documentation à l'ENEA Construct ENEA Teaching Unit/ Documentation Center		1	
Restaurations à l'ENEA Renovations at ENEA			1
Fourniture du matériel et de l'équipement à l'ENCR Provide materials and equipment for ENCR	X	X	

TABLEAU B-7

REBOISEMENT ET FIXATION DES DUNES

PLAN D'EXECUTION

TABLE B-7

REFORESTATION AND DUNE FIXATION

IMPLEMENTATION TARGETS

	Year 1 1ère A.	Year 2 2ème A.	Year 3 3ème A.
Fixation des Dunes Dune Fixation			
Planter des arbres sur les dunes mouvantes (ha) Plant trees on live dunes (ha)	400	1,450	1,850
Construction de 10 logements et bureaux Construct 10 office/housing quarters	10		
Achat de véhicules (6 véhicules légers, 15 tous-terrains, 12 mobylettes) Purchase vehicles (6 light, 15 4WD, 12 motorcycles)	33		
Embauche de secrétaires, mécaniciens et chauffeurs Employ secretaries, mechanics and drivers	20		

TABLEAU B-8

FONDS DE DEVELOPPEMENT POUR LES ACTIVITES RURALES ET AGRICOLES

PLAN D'EXECUTION*

TABLE B-8

DEVELOPMENT FUND FOR RURAL/ AGRICULTURAL ACTIVITIES

IMPLEMENTATION TARGETS*

	Year 1 1ère A.	Year 2 2ème A.	Year 3 3ème A.
1. Réduire les obstacles à la consommation du mil en milieu rural et urbain par des possibilités de réduction du coût de la préparation. Reduce constraints to millet utilization in rural and urban areas by opportunities to reduce millet preparation costs.			
2. Augmenter la disponibilité du mil sur les marchés ruraux/urbains en fournissant l'infrastructure pour le traitement, le transport et la commercialisation du mil traité ainsi que les sous-produits du mil. Improve the availability of millet in rural/urban markets by assisting with facilities to process, transport and sell processed millet and millet by-products.			
3. Renforcer les instituts locaux en les équipant pour assumer de plus grandes responsabilités dans les fonctions de traitement et de commercialisation. Strengthen local institutions by equipping them to assume greater responsibility for millet processing and marketing functions.			

*Des plans d'exécution précis pour les AF 1980/1982 devant être élaborés au cours de l'AF 1980, ou avant le décaissement des fonds du Compet Spécial du Titre III

* Specific implementation targets for FY 1980/1982 to be established in FY 1980, or before disbursing funds from Title III Special Account.

TABLEAU B-8 (SUITE)

4. Conserver les ressources naturelles en supportant les programmes de reboisement, conservation des sols, pâturages et forêts, ainsi que les infrastructures de conservation.

Preserve the natural resources by supporting programs of reforestation, soil range and forest conservation, and conservation infrastructure.

MEMORANDUM OF UNDERSTANDING
RELATING TO THE AGREEMENT
BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF SENEGAL

FOR

SALES OF AGRICULTURAL COMMODITIES
PL-480 TITLE III

PROTOCOLE D'ENTENTE
CONCERNANT L'ACCORD
ENTRE

LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE
ET
LE GOUVERNEMENT DE LA REPUBLIQUE DU SENEGAL

POUR

LA VENTE DE DENREES AGRICOLES
PL-480 TITRE III

Dated : May 16, 1980

En date du: 16 mai 1980

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PROTOCOLE D'ENTENTE

CONCERNANT L'ACCORD ENTRE LE GOUVERNEMENT DES ETATS-UNIS D'AMERIQUE ET LE GOUVERNEMENT DE LA REPUBLIQUE DU SENEGAL POUR LA VENTE DE DENREES AGRICOLES PL-480 TITRE III.

Dans le cadre de l'exécution de l'Accord entre le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République du Sénégal portant sur la vente de denrées agricoles, constituant un Accord sur un Programme Alimentaire pour le Développement, Loi Publique 480 Titre III (dénommé ci-après "l'Accord"), le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République du Sénégal ont pris connaissance et convenu de ce qui suit:

I. DENREES

Désirant maintenir et renforcer les relations entre les peuples des Etats-Unis d'Amérique et de la République du Sénégal, les deux gouvernements ont conclu un Accord, par lequel le Gouvernement des Etats-Unis, comme il est indiqué à la Partie I, Article I(A) de l'Accord, s'engage à financer la vente de denrées agricoles suivant les quantités spécifiées dans la Partie II de l'Accord, au Gouvernement de la République du Sénégal sur des bases concessionnaires. Les produits de la vente des denrées ainsi fournies dans le cadre de l'Accord seront déposés dans un compte spécial et serviront à mener à bien le Programme Alimentaire pour le Développement décrit aux Annexes A et B de l'Accord.

A) Types, Classes et Quantités des Denrées

Riz: No.5, brisures à 20%

Blé

B) Prix et Valeurs

Les valeurs des denrées mentionnées dans la Partie II de l'Accord sur le marché d'exportation représentent le montant global pour lequel les autorisations d'achat peuvent être délivrées. Les quantités des denrées indiquées dans la Partie II de l'Accord sont approximatives, basées sur les estimations actuelles des cours en vigueur. Il est entendu que des changements des prix du marché peuvent intervenir

MEMORANDUM OF UNDERSTANDING

RELATING TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF SENEGAL FOR SALES OF AGRICULTURAL COMMODITIES PL-480 TITLE III.

In implementation of the Agreement between the Government of the United States of America and the Government of the Republic of Senegal for sales of agricultural commodities, constituting a Public Law 480 Food For Development (Title III) Program (hereinafter referred to as the Agreement), the Government of the United States of America and the Government of the Republic of Senegal have noted and agreed as follows:

I. COMMODITIES

Wishing to maintain and strengthen the relations between the peoples of the United States of America and the Republic of Senegal the two Governments have entered into the Agreement whereby the Government of the United States of America as stated in Part I, Article I(A) of the Agreement undertakes to finance the sales of agricultural commodities to the Government of the Republic of Senegal on a concessional basis in quantities specified in Part II of the Agreement. Proceeds from the sale of commodities so furnished under the Agreement shall be deposited in a special account and used to carry out the Food For Development Program described in Annexes A and B of the Agreement.

(A) Types, Grades and Quantities

Rice: No.5, twenty percent broken

Wheat

(B) Cost and Value

The export market values of commodities shown in Part II of the Agreement represent the total amount for which purchase authorization may be issued. The quantities of commodities shown in PART II of the Agreement are approximations based on current estimates of export market prices. It should be understood that changes in market prices may take place after negotiations have begun which will result in

après le démarrage des négociations, entraînant une augmentation ou une diminution de la quantité de la denrée pouvant être acquise avec les sommes en dollars sous négociation.

C) Période de Livraison

"La livraison" correspond à la date du Connaissement "à-bord". Tout en reconnaissant que la période de livraison (de fourniture) est l'année financière américaine 1980 (qui s'achève le 30 septembre), le Gouvernement du Sénégal souhaite la livraison le plus tôt possible. Le Gouvernement du Sénégal reconnaît qu'il est important d'organiser les achats et de programmer les expéditions pour s'assurer que les livraisons seront faites avant le 30 septembre 1980; les livraisons ultérieures à cette date seront reportées à l'année financière suivante et pourront avoir comme conséquence la réduction de la valeur et du financement rendus disponibles pour la durée du programme, e.g. 3 ans.

II. DISPOSITIONS FINANCIERES

A) Paiements

Comme défini dans la Partie II, Chapitre II de l'Accord, le financement du Programme Titre I nécessitera des modalités de crédit de 30 ans en monnaie locale convertible, y compris un différé de 10 ans, aux taux d'intérêt de deux pour-cent (2%) pendant le différé, et de trois pour-cent (3%) après.

B) Remise de la Dette

Dès réception de pièces justifiant les décaissements faits par le Gouvernement du Sénégal à partir du compte spécial pour des fins admissibles dans le cadre des activités du Programme Titre III et/ou des programmes définis à l'Annexe B de l'Accord, le Gouvernement des Etats-Unis imputera ces décaissements contre l'engagement de remboursement des dettes du Titre I pris aux termes de l'Accord.

an increase or decrease in the quantity of the commodity procurable with the dollar amounts negotiated.

(C) Delivery Period

"Delivery" is defined as the "On-Board" Bill of Lading date. While the GOS notes that the delivery (supply) period is U.S. fiscal year 1980 (ending September 30, 1980) it desires to have delivery as soon as possible. The GOS acknowledges the importance of arranging purchases and scheduling shipments to ensure tha deliveries are made prior to September 30, 1980; deliveries after that date would be charged to the next fiscal year and could have the effect ultimately of reducing the value and financing made available over the 3-year period of the program.

II. FINANCIAL TERMS

(A) Payments

As set forth in Part II Item II of the Agreement, financing of the Title I program provides for convertible local currency credit terms of 30 years credit, including a ten year grace period, with interest rates of two percent (2%) during the grace period and three percent (3%) thereafter.

(B) Local Currency Offset

On receipt of satisfactory evidence of disbursements from the special account for eligible uses by the GOS for the Title III activities and/or programs described in Annex B of the Agreement, the USG will apply such disbursements against the Title I payment obligation incurred under the Agreement.

C) Versements au Compte Spécial

Le versement total des recettes en monnaie locale de la vente dans le compte spécial, équivalant à la valeur en dollars des denrées fournies, sera effectué dans un délai de six mois après le décaissement de la CCC (la date du connaissement "à-bord"). Le Gouvernement du Sénégal avise le Gouvernement des Etats Unis qu' à ce propos, un "Compte Spécial PL-480 Titre III" a été ouvert auprès de l'Union Sénégalaise de Banque (USB), Dakar, où les recettes en monnaie locale seront versées. Si un intérêt quelconque est accru à partir des recettes versées au compte spécial, il ne fera pas l'objet d'une utilisation dans le cadre des dispositions de remise de prêt de l'Accord.

D) Taux de Change

Le taux de change à utiliser pour calculer l'équivalent en monnaie locale de la valeur en dollars des denrées devant être versé au compte spécial sera le taux de change défini à la Partie I, Chapitre III-G, en vigueur à la date du décaissement de la CCC (date du connaissement à-bord), pour chaque Autorisation d'Achat. Le Gouvernement du Sénégal notifie l'USG qu'un système de taux d'échange unitaire prédomine au Sénégal.

E) Décaissements du Compte Spécial

Le décaissement total des fonds du compte spécial à des fins définies à l'Annexe B et conformément aux dispositions de l'Accord, dont le montant est équivalent à la valeur du prêt en dollars consenti par le Gouvernement des Etats-Unis, sera considéré comme remboursement de tous les acomptes du principal et paiements des intérêts prévus par l'Accord. Les décaissements du "Compte Spécial PL-480 Titre III" seront affectés aux différents comptes de projets. Les comptes de projets seront tenus auprès de l'Union Sénégalaise de Banque (USB) Dakar.

(C) Deposits to Special Account

Full deposit of local currency to the special account equivalent to the dollar value of the commodities provided shall be accomplished within six months of the CCC disbursement (date of the on-board B/L). The GOS hereby notifies the USG that a "PL-480 Title III Special Account" has been opened with the Union Sénégalaise de Banque (USB) Dakar to which the local currency generations will be deposited. If any interest is earned from the local currency proceeds deposited in the special account, it will not be eligible for use under the loan forgiveness provisions of the Agreement.

(D) Exchange Rate

The exchange rate to be used in calculating the local currency equivalent of the commodity dollar value to be deposited in the special account shall be the exchange rate specified in Part I, Article III-G in effect on the date of CCC disbursement (on-board B/L date) for each P.A. The GOS advises the USG that a unitary exchange rate system prevails in Senegal.

(E) Disbursements from Special Account

Full disbursement of funds from the special account for purposes specified in Annex B and in accordance with the provisions of the Agreement, in an amount equivalent to the dollar value of the credit furnished by the USG, shall be deemed to be payment of all installements of principal and interest payable thereon for the commodities financed under the Agreement. Disbursements from the "PL-480 Title III Special Account" shall be made to the individual project accounts. The project accounts will be maintained at the Union Sénégalaise de Banque (USB) Dakar.

F) Rapports

Le Gouvernement du Sénégal présentera mensuellement au Gouvernement des Etats Unis le relevé de compte spécial, le relevé de chaque compte de projet, et un rapport trimestriel portant sur les finances, les activités et l'état d'avancement du programme, en vue de faciliter le suivi du volet financier de l'Accord. Conformément à l'Annexe A, Chapitre III-B de l'Accord, le rapport trimestriel doit être certifié. L'autorité de contrôle financier habilitée à certifier ces rapports est le Directeur des Dettes et des Investissements Publics, Ministère des Finances et des Affaires Economiques.

G) Moins- Value et Non-Respect de l'Exécution du Programme Titre III

(1) Non-Respect de l'Exécution du Programme Titre III

Si, pour une raison, des parties ou l'ensemble du programme Titre III décrits aux Annexes A et B, ne peuvent être réalisés, le Gouvernement du Sénégal s'engage à allouer les fonds aux projets d'auto-assistance dans les secteurs de l'agriculture et de développement rural décrits à la Partie II, Chapitre V de l'Accord, auquel cas le remboursement du prêt et des taux d'intérêt sera fait conformément à l'alinéa II ci-dessus.

(2) Moins-Value

Aux termes de l'Annexe B, Chapitre III-C-2 de l'Accord, si pour une raison, les recettes en monnaie locale générées par la vente des denrées du Titre III sont inférieures à la valeur en dollars U.S. des décaissements de la CCC, et que par conséquent il sera demandé au Gouvernement du Sénégal de verser des sommes supplémentaires au compte spécial, le Gouvernement du Sénégal s'engage à ne pas tirer ces sommes supplémentaires des fonds de développement provenant des Etats-Unis ou des fonds de développement d'un tiers pays.

(F) Reporting

The GOS will provide monthly to the USG a copy of the bank statement for the special account, the bank statements for each project account, and a quaterly financial, activity and progress report to assist in monitoring the financial aspect of this Agreement. Annex A, Item III-B of the Agreement requires the quaterly report to be certified. The appropriate audit authority to certify these reports is the Director of Debt and Public Investments, Ministry of Finance and of Economic Affairs.

(G) Funding Shortfalls and Failure to Implement Title III

(1) Failure to Implement Title III

If for any reason portions or all of the Title III program described in Annexes A and B cannot be carried out, the GOS agrees to apply the currency generations to the self help projects of the Agricultural and Rural Development sectors described in Part II, Item V of the Title I Agreement, in which case the principal and interest payments of the loan shall be made as stated in para II-A above.

(2) Funding Shortfalls

Per Annex B Item III-C-2 of the Agreement, if for any reason local currency generations from the sale of Title III commodities are less than the U.S. dollar value of CCC disbursements, and consequently the GOS is required to make up (deposit) additional amounts to the special account, the GOS agrees this additional amount will not be drawn from U.S. supplied development funds or from third country development funds.

III. ACHAT DES DENREES AUX ETATS UNIS, LEUR VENTE AU SENEGAL

A) Autorisations d'Achat

Le Gouvernement de la République du Sénégal a pris acte que les autorisations d'achat émises aux termes de l'Accord incluront une clause exigeant que les appels d'offres pour les denrées et l'affrêtement soient soumis au "Foreign Agricultural Service, United States Department of Agriculture, Washington", pour être revus et approuvés avant d'être transmis aux soumissionnaires éventuels aux Etats-Unis. L'objet principal de cette clause est de permettre à l'USDA d'assurer que les appels ne contiennent pas des clauses ou conditions en contradiction avec les dispositions de l'autorisation d'achat et les règlements financiers de la PL-480. Une vérification préalable des appels donnera aux experts de l'USDA l'occasion de donner des avis et une assistance pour assurer un calendrier raisonnable pour la livraison des denrées, afin de permettre le maximum de flexibilité pour coordonner la disponibilité des bateaux et les délais des contrats pour les denrées et leur livraison.

B) Interdiction des Commissions et Rétributions aux Vendeurs

Les commissions, rétributions ou autres paiements à tout agent de vente cherchant à obtenir un contrat sont interdits pour tout achat des denrées alimentaires, dans le cadre de l'Accord.

C) Vente Immédiate des Denrées au Sénégal

Le Gouvernement de la République du Sénégal reconnaît la nécessité d'acheter, d'expédier, de débarquer et de vendre les denrées d'une manière rapide comme préalable à la génération des fonds en monnaie locale pour la réalisation des projets définis aux Annexes A et B de l'Accord. A cet effet, le Gouvernement du Sénégal est d'accord que les denrées fournies

III. COMMODITY PURCHASES IN U.S. AND THEIR SALE IN SENEGAL

(A) Purchase Authorizations

The Government of the Republic of Senegal notes that purchase authorizations issued under the Agreement will contain requirements that invitations for bids for both commodity and freight must be submitted to FAS/USDA/Washington for review and approval prior to their release to prospective bidders in the U.S. The primary purpose of this requirement is to enable USDA to ensure that invitations do not contain terms or conditions which may be in conflict with PA terms and PL-480 financing regulations. Prior review of invitations will also give USDA specialists opportunity to provide advice and assistance in assuring realistic commodity delivery schedules in order to allow maximum flexibility in matching available shipping to commodity contracts.

(B) Prohibition of Sellers Commissions and Fees

Commissions, fees or other payments to any selling agent seeking to obtain a contract are prohibited in any purchases of food commodities under the Agreement.

(C) Prompt Sale of Commodities in Senegal

The Government of the Republic of Senegal recognizes the necessity of the expeditious purchase, shipment, discharge and sale of commodities in Senegal as a pre-requisite to generating local currency to carry out the projects described in Annexes A and B of the Agreement. To this end, the GOS agrees that the commodities provided under the

aux termes de l'Accord ne soient pas stockées pour de longues durées ou converties en stocks de réserve, ou que leur utilisation soit ajournée d'une manière ou d'une autre, mais qu'elles soient utilisées dès leur livraison au Sénégal

IV. COMITE DE GESTION, SECRETARIAT ET COORDINATION AVEC L'USAID

A) Responsabilités du Comité de Gestion

Le Programme Alimentaire pour le Développement sera mis en œuvre sous la coordination générale d'un Comité Sénégalais de Gestion, composé de représentants du Ministère du Plan et de la Coopération, du Ministère de l'Economie et des Finances, du Ministère du Commerce, du Ministère du Développement Rural et du Ministère de l'Enseignement Supérieur, du Secrétariat d'Etat à la Recherche Scientifique et Technique (SERST) et du Secrétariat d'Etat aux Eaux et Forêts.

Les tâches du Comité de Gestion, définies à l'Annex B, Chapitre IV, comprennent, mais ne se limitent pas à:

- la vente des denrées au Sénégal;
- le versement des recettes de la vente au compte spécial;
- l'allocation des fonds aux comptes de projets;
- la préparation et la présentation à temps des rapports périodiques mentionnés à la Section IX ci-après;
- la restitution des moins-values, Section II-G ci-dessus;
- la convocation des réunions semestrielles et annuelles pour l'examen/évaluation du programme;
- la recommandation des solutions aux problèmes faisant obstacle à la réalisation des objectifs du programme;
- la gestion du Programme Alimentaire pour le Développement.

Agreement will not be directed to prolonged storage or to reserves, or otherwise delayed in utilization, but will be utilized promptly upon their arrival in Senegal.

IV. MANAGEMENT COMMISSION, SECRETARIATE AND COORDINATION WITH USAID

(A) Management Commission Responsibilities

The Food For Development Program will be implemented by the GOS under the overall coordination of a Senegal Management Commission consisting of representatives of the Ministry of Economic Affairs and Finance, Ministry of Plan and Cooperation, Ministry of Commerce, Ministry of Rural Development, Ministry of Higher Education, Secretariate of State for Scientific and Technical Research and Secretariate of State for Water and Forest.

Responsibilities of the Management Commission outlined in the Agreement Annex B, Item IV include, but are not limited to:

- sale of the commodities in Senegal;
- deposit of sale proceeds to the special account;
- allocation of currency to the project accounts;
- preparation and timely submission of periodic reports identified in Section IX hereafter;
- restoration of funding shortfalls, Section II-G herein above;
- convening mid-year and annual program reviews / evaluations;
- recommend solution to problems inhibiting the achievement of program goals;
- management of the Food For Development Program.

B) Responsabilités du Secrétariat

Le Comité Sénégalais de Gestion sera assisté par un Secrétariat à plein temps. Afin d'éviter un double emploi par la création d'un personnel et des dépenses inutiles, le Gouvernement du Sénégal et le Gouvernement des Etats-Unis sont convenus qu'une structure de gestion sera engagée pour accomplir les tâches du Secrétariat permanent, définies à l'Annexe B, Chapitre IV de l'Accord.

C) Cycle Annuel du Programme, le Calendrier

Le calendrier annuel du programme et des rapports ci-après énumérés à la Section IX résument les exigences administratives/documentaires de l'Accord telles qu'elles sont définies à l'Annexe A (Chapitre II-A-2 et Chapitre III-G), et à l'Annexe B (Chapitre IV-A-2 et Chapitre V-A).

1980

16 Mai	Signature de l'Accord;
30 Mai	Autorisation d'Achat délivrée, les denrées achetées;
30 Juin	Denrées à bord du bateau;
20 Juillet	Arrivée des denrées à Dakar;
31 Juillet	Fin de l'Exercice Fiscal/des Activités; (Revue/Evaluation de fin d'année);
1-31 Août	Rédaction du Rapport Annuel;
1 Sept.	Rapport Annuel envoyé à AID/Washington;
15 Sept.	Recettes versées au Compte Spécial;
15 Sept.	Approbation du Rapport Annuel par AID/Washington;
1 Nov.	Autorisation d'Achat délivrée, les denrées achetées;
1 Déc.	Denrées à bord du bateau
20 Déc.	Arrivée des denrées à Dakar.

(B) Secretariate Responsibilities

The Senegal Management Commission will be supported by a full time Secretariate. In order to avoid the creation of unnecessary staff and expense the Government of Senegal and the Government of the United States agree that a structure or consulting firm will be employed to perform the duties of the permanent Secretariate as outlined in Annex B, Item IV of the Agreement.

(C) Annual Program Cycle and Timetable

The following annual program cycle and the reports listed in Section IX together summarize the documentation/administrative requirements of the Agreement as stated in Annex A (Item II-A-2 and Item III-G) and Annex B (Item IV-A-2 and Item V-A).

1980

May 16	Agreement signed;
May 30	Purchase Authorization issued and commodities bought;
June 30	Commodities aboard ship;
July 20	Commodities in Dakar;
July 31	Financial/Activity year ends; (Year end Review/Evaluation);
August 1-31	Write Annual Report;
Sept. 1	Annual Report sent to AID/Washington;
Sept. 15	Cash in Special Account
Sept. 15	AID/Washington approve Annual Report
Nov. 1	P/A issued and commodities bought;
Dec. 1	Commodities aboard ship;
Dec. 20	Commodities in Dakar.

1981

31 Janvier	Fin du 1er semestre (revue/évaluation du 1er semestre);
15 Février	Recettes versées au Compte Spécial;
31 Juillet	Fin de l'Exercice Fiscal/des Activités (revue/évaluation de fin d'année);
1-31 Août	Rédaction du Rapport Annuel;
1 Sept.	Rapport Annuel envoyé à AID/Washington;
15 Sept.	Approbation du Rapport Annuel par AID/W;
1 Nov.	Autorisation d'Achat délivrée, les denrées achetées;
1 Déc.	Denrées à bord du bateau;
20 Déc.	Arrivée des denrées à Dakar.

1981

January 31	Half year ends (mid-year review/evaluation);
February 15	Cash in Special Account;
July 31	Financial/Activity year ends, (year end review/evaluation);
August 1-31	Write Annual Report
Sept. 1	Annual Report sent to AID/Washington;
Sept. 15	AID/W approve Annual Report;
Nov. 1	P/A issued and commodities bought;
Dec. 1	Commodities aboard ship;
Dec. 20	Commodities in Dakar.

1982

31 Janvier	Fin du 1er semestre (revue/évaluation du 1er semestre);
15 Février	Recettes versées au Compte Spécial;
31 Juillet	Fin de l'Exercice Fiscal/des Activités (revue/évaluation de fin d'année);
1-31 Août	Rédaction du Rapport Annuel;
1 Sept.	Rapport Annuel envoyé à AID/W;
15 Sept.	Approbation du Rapport Annuel par AID/W;
1 Nov.	Autorisation d'Achat délivrée, les denrées achetées;
1 Déc.	Denrées à bord du bateau;
20 Déc.	Arrivée des denrées à Dakar.

1982

January 31	Half year ends (mid-year review/evaluation);
February 15	Cash in Special Account;
July 31	Financial/Activity year ends; (year end review/evaluation);
August 1-31	Write Annual Report
Sept. 1	Annual Report sent to AID/W;
Sept. 15	AID/W approve Annual Report;
Nov. 1	P/A issued and commodities bought;
Dec. 1	Commodities aboard ship;
Dec. 20	Commodities in Dakar.

1983

31 Janvier	Fin du 1er semestre (revue/évaluation du 1er semestre).

1983

January 31	Half year ends (mid-year review/evaluation).

D) Coordination avec l'USAID

Le Gouvernement du Sénégal et le Gouvernement des Etats-Unis ont convenu qu'une collaboration étroite entre les deux gouvernements est indispensable à la réalisation des objectifs du Programme Alimentaire pour le Développement.

(D) Coordination with USAID

The Government of Senegal and the Government of the United States agree that close coordination between the two Governments is essential to achieve the Food For Development Program goals.

Les responsabilités individuelles et conjointes pour l'exécution du programme sont définies à l'Annexe A, à l'Annexe B, Chapitre IV, et les procédures d'évaluation et de contrôle financier sont définies à l'Annexe B, Chapitre V.

V. OBLIGATIONS RELATIVES AU MARCHE HABITUEL

A) Quantité

Le Gouvernement de la République du Sénégal a pris acte de la disposition de la Partie II, Chapitre III de l'Accord qui prévoit les Obligations Relatives au Marché Habituel pour les quantités suivantes:

Riz: 204.000 tonnes métriques

Blé:

Maïs:

B) Définition

L'Obligation Relative au Marché Habituel pour chaque denrée représente la moyenne des importations commerciales de pays amis par la République du Sénégal au cours des cinq dernières années. L'ORMH se conforme à la Section 103(C) de la PL-480 qui prévoit qu'en négociant les Accords du Titre III de la PL-480, le Président des Etats-Unis d'Amérique prenne des dispositions raisonnables pour sauvegarder les marchés habituels des Etats-Unis et pour assurer que les ventes du Titre III ne perturbent à tort les prix mondiaux des denrées agricoles ou les rapports commerciaux avec les pays amis.

Par conséquent, le Gouvernement des Etats-Unis d'Amérique souhaite souligner, et le Gouvernement de la République du Sénégal a pris acte de ce qui suit:

1) L'ORMH pour chaque denrée est présumée être la quantité minimum qui serait importée chaque année financière (du 1er octobre au 30 septembre), par les voies

The separate and joint responsiblities for implementation are outlined in Annex A, in Annex B, Item IV and the procedures for evaluation and audit are contained in Annex B, Item V.

V. USUAL MARKETING REQUIREMENTS (UMR's)

(A) Quantities

The Government of the Republic of Senegal notes in Part II, Item III of the Agreement the provision for a Usual Marketing Requirement of the following quantities:

Rice: 204,000 MT

Wheat:

Corn:

(B) Definition

The Usual Marketing Requirement for each commodity represents an average of commercial imports from friendly countries by the Republic of Senegal over the past five years. The UMR complies with Section 103(C) of PL-480 which requires that in negotiating PL-480 Title III Agreements the President of the United States of America shall take reasonable precautions to safeguard usual marketings of the United States and to assure that sales under Title III will not unduly disrupt world prices of agricultural commodities or normal patterns of commercial trade with friendly countries.

Therefore, the Government of the United States of America wishes to point out and the Government of the Republic of Senegal acknowledges the following:

(1) The UMR for each commodity is presumed to be the minimum quantity that would be imported each fiscal year (October 1 through September 30) through normal

normales de commercialisation, en l'absence de l'Accord des ventes dans le cadre du Titre III, et par conséquent doit être importée commercialement, même si l'attribution totale sous le Titre III n'est pas utilisée.

2) Les achats répondant aux ORMH doivent être financés par le Gouvernement de la République du Sénégal avec ses propres moyens (sans inclure le financement par l'AID). Les importations de l'Albanie, de l'Astonie, de la Bulgarie, de la République Populaire de Chine, de Cuba, de la Tchéquoslovaquie, de l'Allemagne de l'Est, de la Hongrie, de la Lettonie, de la Haute Mongolie, de l'URSS et du Vietnam, les produits importés sous PL-480, ou les subventions reçues des Etats-Unis ou d'autres sources, ne sont pas compris dans le calcul de l'ORMH.

3) Si le Gouvernement des Etats-Unis devait autoriser et financer la livraison des produits du Titre III au-delà de la période d'approvisionnement indiquée à la Partie II de l'Accord, le pays importateur sera tenu de maintenir les mêmes ORMH pour la période subséquente comparable, conformément au Chapitre III-A(1) de l'Accord. Si une obligation ORMH différente de celle établie dans l'Accord est jugée appropriée, l'Accord peut être amendé.

C) Exportations

Les denrées fournies aux termes de l'Accord sont destinées à aider la République du Sénégal à satisfaire ses besoins alimentaires et non dans le but de permettre une augmentation des exportations des mêmes produits ou de produits similaires tels que définis par l'Accord. Toute exportation des mêmes produits ou de produits similaires, qu'ils soient d'origine locale ou étrangère ne sera pas autorisée, aux termes de l'Accord, sauf si elle est spécialement acceptée par les Etats-Unis. Cece est spécifiquement prévu à la Partie I, Article III-A(4) et à la Partie II, Chapitre IV de l'Accord.

commercial channels in the absence of a Title III sales agreement, and therefore, must be imported commercially even though the full allotment under Title III is not utilized.

2) Purchases against the UMR's are to be financed by the Government of the Republic of Senegal from its own resources (not including AID financing). Imports from Albania, Estonia, Bulgaria, the People's Republic of China, Cuba, Czecho-Slovakia, East Germany, Hungary, Latvia, Outer Mongolia, USSR and Vietnam, commodities imported under PL-480, or grants received from the United States or other sources cannot be counted towards the UMR's.

(3) Should the United States Government authorize and finance deliveries of Title III commodities to extend beyond the supply period specified in Part II of the Agreement, the importing country will be required according to Article III-A(1) of the Agreement to maintain the same UMR for the subsequent comparable period. If a UMR different from that established in the Agreement is deemed appropriate, the Agreement may be amended.

(C) Exports

The commodities provided in the Agreement are for the purpose of helping to meet the food requirements of the Republic of Senegal and are not for the purpose of permitting an increase in exports of the same or like commodities as defined in the Agreement. Any exports of the same or like commodities, either of indigenous origin or foreign origin, accordingly, cannot be permitted unless specifically agreed to by the United States. This is specifically covered in Part I, Article III-A(4) and Part II, Item IV of the Agreement.

D) Violations

Le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République du Sénégal ont pris acte du fait que le non-respect des dispositions de la Partie I, Article III(A) de l'Accord, ou le non-respect de toutes autres dispositions de l'Accord, pourrait entraîner la suspension d'émission des autorisations d'achat et serait pris en considération lors de l'examen de nouveaux accords PL-480, à moins qu'une solution ne soit apportée à la situation. Si la violation se rapporte à des exportations interdites, la solution peut être un paiement en dollars au Gouvernement des Etats-Unis pour la valeur totale de la violation ou l'achat et l'importation commerciale des Etats-Unis, en utilisant les propres ressources du pays importateur, équivalant à cet excédent d'exportation. Ces importations supplémentaires ne seront pas comprises dans les ORMH.

VI. IDENTIFICATION

Vu les efforts du Gouvernement des Etats-Unis pour assister le Gouvernement de la République du Sénégal en lui fournissant des denrées alimentaires sur des bases concessionnaires, désirant promouvoir l'amitié entre le peuple des Etats-Unis d'Amérique et le peuple de la République du Sénégal, et en tenant compte de la Partie I, Article III-1 dudit Accord,

Le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République du Sénégal sont convenus d'entreprendre un programme d'identification et de publicité de l'Accord, établi comme suit:

A) Communiqués

1) Après la signature de l'Accord, les deux parties publieront un communiqué conjoint annonçant la signature de l'Accord en indiquant la valeur des produits à fournir;

(D) Violations

The Government of the United States of America and the Government of the Republic of Senegal note that failure to comply with the provisions of Part I, Article III(A) of the Agreement or failure to comply with any other requirement of the Agreement, could result in withholding issuance of purchase authorizations and would be taken into account in consideration of new PL-480 agreements unless the situation is remedied. If the violation involves prohibited exports, remedy may take the form of dollar payment to the United States Government to the extent of the value of the violation or the purchase and importation, utilizing the importing country's own resources, on a commercial basis from the United States of an equivalent amount of such excess exports. These additional imports must be over and above the UMR.

VI. IDENTIFICATION

In view of the efforts of the Government of the United States of America to assist the Government of the Republic of Senegal by providing food commodities on a concessional basis; being desirous of promoting increased goodwill between the people of the United States of America and the people of the Republic of Senegal; and in recognition of Part I Article III Item I of the Agreement,

The Government of the United States of America and the Government of the Republic of Senegal agree to undertake a program of identification and publicity of the Agreement including the following:

(A) Announcements

(1) Upon signature of the Agreement both parties shall issue a joint communiqué detailing the signing of the Agreement, including the value of commodities to be provided;

(2) Le texte du communiqué sera lu à la radio nationale de la République du Sénégal, dans un délai maximum de vingt-quatre heures après la signature de l'Accord;

(3) Le texte du communiqué sera publié au "Soleil", quotidien national, dans un délai maximum de deux semaines après la signature de l'Accord.

B) Rapports

Afin d'exécuter pleinement les alinéas 1, 2 et 3 ci-dessus, le Gouvernement de la République du Sénégal convient de rendre compte périodiquement des mesures prises pour mettre en œuvre l'Accord. Ces rapports feront partie des Rapports de Conformité trimestriels (Partie IX du Protocole d'Entente).

VII. PERSONNES CHARGÉES DU PROGRAMME AUX ETATS-UNIS

A) Désignation d'un Agent

Avant la signature de l'Accord, le Gouvernement des Etats-Unis a informé le Gouvernement de la République du Sénégal qu'il sera nécessaire de désigner un agent, ou plus, aux Etats-Unis, chargé de consulter les autorités compétentes du Gouvernement des Etats-Unis au sujet des règlements et procédures qui s'appliquent à l'achat, au financement, aux compte-rendus, et au transport maritime, ceci à cause des complications liées à la mise en œuvre de toutes les dispositions de l'Accord. Ces consultations doivent être achevées avant la délivrance de toute autorisation d'achat. La personne désignée aux Etats-Unis doit être habilitée à signer tous les documents se rapportant à la mise en œuvre de l'Accord.

En outre, le Gouvernement des Etats-Unis a informé le Gouvernement du Sénégal que s'il engage les services d'une personne

(2) The text of this communiqué shall be broadcast over the national radio network of the Republic of Senegal not later than twenty-four hours after the signing of the Agreement;

(3) The text of the communiqué shall be published in the national daily "Le Soleil" not later than two weeks following the signing of the Agreement.

(B) Reporting

In order to fully implement items 1, 2 and 3 above, the Government of the Republic of Senegal agrees to report on a periodic basis on the measures taken to carry out identification of the Agreement. These reports shall be included as part of the quarterly Compliance Reports (Part IX of the Memorandum of Understanding).

VII. RESPONSIBLE PERSONS IN THE UNITED STATES

(A) Appointment of an Agent

Prior to signing the Agreement, the Government of the United States informed the Government of the Republic of Senegal that it would be necessary to designate one or more persons in the United States to consult with representatives of the United States Government to discuss the rules and procedures applicable to procurement, financing, reporting, and ocean transportation, because of the complications involved in connection with the implementation of all the provisions of the Agreement; that this consultation must be completed before any purchase authorizations are issued; that the designated person in the United States should be authorized to sign all documents relating to the implementation of the Agreement.

Furthermore, the Government of the United States informed the Government of the Republic of Senegal that if it engages

ou d'une société en qualité d'agent, pour s'occuper de l'achat des denrées et (ou) du transport maritime, l'agent désigné doit être approuvé par le Département de l'Agriculture des Etats-Unis. Une copie du contrat passé entre le Gouvernement du Sénégal et l'agent aux Etats-Unis doit être soumise à l'USDA pour approbation. Cette approbation doit être obtenue avant la délivrance des Autorisations d'Achat concernées.

B) Responsabilités de l'Agent

Le Gouvernement du Sénégal informe le Gouvernement des Etats-Unis que, en vue d'accélérer l'achat aux Etats-Unis et l'expédition au Sénégal des denrées PL-480 Titre III, le Gouvernement du Sénégal a nommé comme son agent officiel, le Directeur de la Caisse de Stabilisation, du Ministère du Commerce, qui agira au nom et pour le compte de l'Ambassade du Sénégal à Washington sur toutes les questions concernant l'achat et le frêt maritime.

Les responsabilités de l'Agent comprendront, entre autres:

1) La formulation des demandes d' Autorisations d'Achat.

2) La demande de lettre d'engagement désignant une banque aux Etats-Unis qui s'occupera des lettres de crédit pour les denrées et le frêt maritime. Le Gouvernement du Sénégal informe le Gouvernement des Etats-Unis que la banque américaine choisie est une banque avec laquelle il entretient des rapports commerciaux.

3) L'approbation des appels d'offre pour les denrées.

4) L'approbation des appels d'offre pour le frêt maritime.

5) Le traitement de toutes les questions relatives aux lettres de crédit.

the services of a private individual or firm as its agent to handle the procurement of the commodities and/or ocean shipping, such private agent must be approved by the United States Department of Agriculture; a copy of the written agreement between the Government of Senegal and its private agent in the United States must be submitted to USDA for approval; and such approval should be obtained prior to the issuance of the applicable purchsse authorizations.

(B) Responsibilities of the Agent

The Government of Senegal informs the Government of the United States that in order to expedite the procurement in the U.S. and shipment to Senegal of PL-480 Title III commodities, the GOS has appointed the Director of the Stabilization Fund, Ministry of Commerce, as its public agent who will act for and on behalf of the Embassy of the GOS in Washington on all matters relating to procurement and shipping.

The agent's responsibilities will include, but are not limited to:

(1) Application for issuance of Purchase Authorizations.

(2) Application for the letter of commitment designating a bank in the U.S. which will handle letters of credit for suppliers of commodities and ocean freight. The GOS advises the USG that the U.S. bank is one with which the GOS has established commercial channels.

(3) Authorizing commodity invitations for bid (IFS's).

(4) Authorizing ocean freight IFB's.

(5) Handling all matters relating to letters of credit.

6) Le traitement de tous les autres problèmes pouvant se présenter et concernant le bon déroulement de l'opération d'achat et d'expédition des denrées du Titre III au Sénégal.

C) Choix de la Banque aux Etats-Unis

Le Gouvernement du Sénégal a choisi les banques ci-après au Sénégal et aux Etats-Unis, qui émettront et accepteront les lettres de crédit pour les denrées et le frêt maritime:

Banque au Sénégal

Nom de la banque: Union Sénégalaise de Banque (USB
Adresse : 17 Boulevard Pinet-Laprade, Dakar, Sénégal
Téléphone : 23-10-08
Telex : 506 UNISEB

Banque aux Etats-Unis

Nom de la banque: Morgan Guarantee Trust Company
Adresse : 23 Wall Street, New-York, N.Y. 10015, U.S.A.
Téléphone : 212-483-2323
Telex : 82616 MORGAN BANK N.Y.

D) Lettres de Crédit

Le Gouvernement des Etats-Unis a informé le Gouvernement du Sénégal que les fournisseurs des denrées refuseront de charger les bateaux si les lettres de crédit couvrant à 100% les coûts des denrées et du frêt maritime ne sont pas présentées au moment du chargement. L'absence de lettres de crédit acceptables a entraîné des réclamations coûteuses déposées par les armateurs pour des indemnités de surestaries et/ou frais de magasinage et de manutention réclamés par les fournisseurs.

(6) Handling all other matters which may arise in connection with the efficient procurement and shipment of Title III commodities to Senegal.

(C) Identification of Bank in the U.S.

The Government of Senegal identifies the following banks in Senegal and in the United States which will issue and honor letters of credit for commodities and ocean freight:

Bank in Senegal

Name of bank: Union Sénégalaise de Banque (USB)
Address : 17 Boulevard Pinet Laprade Dakar, Senegal
Telephone No: 23-10-08
Telex No. : 506 UNISEB

Bank in the United States

Name of bank: Morgan Guarantee Trust Company
Address : 23 Wall Street, New-York N.Y. 10015, U.S.A
Telephone No: 212-483-2323
Telex No. : 82616 MORGAN BANK N.Y.

(D) Letters of Credit

The Government of the United States notifies the Government of Senegal that commodity suppliers will refuse to load vessels when acceptable letters of credit for 100% of commodity and ocean freight are not available at time of loading. The absence of acceptable letters of credit has resulted in costly claims by vessel owners for demurrage and/or detention claims and carrying charges by commodity suppliers.

Par conséquent, le Gouvernement du Sénégal informe le Gouvernement des Etats-Unis que les dispositions nécessaires seront prises pour assurer que des lettres de crédit valables pour les denrées et le frêt maritime soient établies au nom des fournisseurs et confirmées par la banque américaine désignée, aussitôt après la passation du marché de chaque Autorisation d' Achat.

Les lettres de crédit couvrant à 100% le coût du frêt maritime doivent être établies au plus tard 48 heures avant que le bateau ne se présente pour le chargement, prévoyant soit un "effet à vue" ou l'acceptation d'un bon de banque en dollars américains au nom du fournisseur, calculé sur la base du tonnage et du taux précisés dans la charte-partie ou le bon d'affrètement.

E) Avis à l'Ambassade du Sénégal à Washington

Le Gouvernement du Sénégal s'engage dès la signature de l'Accord et du présent Protocole d'Entente, à envoyer un télégramme à son Ambassade à Washington par lequel il lui fournira tous les renseignements indispensables à l'opération d'achat des denrées, y compris:

(1) le devis descriptif des denrées, (2) le calendrier de passation des marchés et de livraison, (3) les noms et adresses des banques américaines et étrangères chargées des lettres de crédit des denrées et du frêt maritime, (4) personne autorisée à formuler les demandes d'Autorisation d' Achat et leur signature ainsi que tout autre document, (5) compléter les instructions/renseignements/autorisations concernant les dispositions à prendre pour l' achat des denrées et la passation des contrats pour le frêt, et (6) un avis que son agent a reçu des instructions pour contacter le "Program Operations Division, Foreign Agricultural Service", du Département Américain pour l'Agriculture.

Consequently, the Government of Senegal notifies the Government of the United States that appropriate measures will be taken to ensure that operable letters of credit for both commodity and freight will be opened in favor of suppliers and confirmed by the designated U.S. bank immediately after contracting under each Purchase Authorization is concluded.

Letters of credit for 100% of ocean transportation should be opened not later than 48 hours prior to vessel presentation for loading, providing for sight payment or acceptance of a draft in U.S. dollars in favor of supplier on the basis of tonnage and rates specified in the charter party or booking note.

(E) Notification to the Government of Senegal Embassy in Washington

The Government of Senegal confirms that upon signing the Agreement and this Memorandum of Understanding it will immediately cable its Embassy in Washington providing full information essential to implement the commodity purchases including:

(1) commodity specifications, (2) contracting and delivery periods, (3) names and addresses of U.S. and foreign banks handling letters of credit for commodity and ocean freight, (4) person authorized to request and sign purchase authorizations and other documents, (5) complete instructions/information/authority regarding arrangements for purchasing commodities and contracting for freight (including appointment of purchasing and/or shipping agents if applicable), and (6) notice that its agent has been instructed to contact Program Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture.

VIII. PERSONNES CHARGEES DU PROGRAMME AU SENEGAL

A) Principaux Responsables du Gouvernement du Sénégal à Consulter

Le Gouvernement de la République du Sénégal informe le Gouvernement des Etats-Unis d'Amérique à Dakar des personnes ou services du Gouvernement du Sénégal chargés du programme, et avec lesquels les représentants du Gouvernement des Etats-Unis peuvent se concerter sur les points ci-après:

VIII. RESPONSIBLE PERSONS IN SENEGAL

(A) Key Government of Senegal Officials to Be Consulted

The Government of the Republic of Senegal informs the Government of the United States of America in Dakar of the individuals or offices in the Government of Senegal reponsible for, and with whom representatives of the United States Government may consult, concerning:

OBJET/SUBJECT	SERVICES/OFFICES
1) Les renseignements sur l'arrivée et le débarquement des denrées	Caisse de Stabilisation, Ministère du Commerce
Commodity arrival and off-loading information	Stabilization Fund, Ministry of Commerce
2) Garanties contre la revente et le transbordement Assurances against resale and transhipment	Caisse de Stabilisation (MinCom) Stabilization Fund (MinCom)
3) Le respect de l'Obligation Relative au Marché Habituel et Limitations des Exportations	Caisse de Stabilisation (MinCom)
Compliance with Usual Marketing Requirements and Export Limitations	Stabilization Fund (MinCom)
4) Utilisation des denrées (vente) Commodity utilization (sale)	Caisse de Stabilisation (MinCom) Stabilization Fund (MinCom)
5) Génération et versements des fonds en monnaie locale	Caisse de Stabilisation (MinCom)
Generation and deposit of local currencies	Stabilization Fund (MinCom)
6) Exécution du Programme de Développement Implementation of Development Program	Comité Sénégalais de Gestion Senegal Management Commission
7) Concordance des comptes, y compris les paiements du principal et de l'intérêt	Directeur de la Dette et des Investissements Publics
Reconciliation of accounts, including principal and interest payments.	Director of Debt and Public Investments.

B) Autres Responsables Autorisés à Négocier/ Mettre en Œuvre les Lettres d'Exécution

Conformément à l'Annexe A, Chapître IV-C de l'Accord, les deux gouvernements respectifs désignent ci-dessous d'autres représentants habilités à négocier et mettre en œuvre les lettres d'exécution et dont les spécimens de signature seront échangés:

GOUVERNEMENT DU SENEGAL
GOVERNMENT OF SENEGAL

- Ministre de l'Economie et des Finances
  Minister of Economic Affairs and Finance
- Ministre du Plan et de la Coopération
  Minister of Plan and Cooperation
- Ministre du Développement Rural
  Minister of Rural Development
- Ministre de l'Enseignement Supérieur
  Minister of Higher Education
- Ministre du Commerce
  Minister of Commerce
- Secrétaire d'Etat à la Recherche Scientifique et Technique
  Secretary of State for Scientific Research and Technique
- Secrétaire d'Etat aux Eaux et Forêts
  Secretary of State for Water and Forests

(B) Additional Officials Authorized to Negotiate/Execute Implementation Letters

Per Annex A, Item IV-C of the Agreement the respective Governments hereby identify the additional representatives authorized to negotiate and execute letters of implementation and whose specimen signatures will be exchanged:

GOUVERNEMENT DES ETATS-UNIS
GOVERNMENT OF THE UNITED STATES

- Directeur de l'USAID
  USAID Director
- Directeur Adjoint de l'USAID
  USAID Deputy Director
- Chef de la Division de Programme/USAID
  USAID Program Officer
- Contrôleur Financier de l'USAID
  USAID Controller
- Responsable du Programme Alimentaire
  USAID Food For Peace Officer

IX. RAPPORTS

Afin que les deux parties soient informées de l'état du programme et que les dispositions de l'Accord soient mises en œuvre, le Gouvernement de la République du Sénégal s'engage à soumettre au Gouvernement des Etats-Unis les rapports suivants, en tenant compte de l'échéance indiquée pour chaque rapport:

IX. REPORTS

In order that the two partners be informed of the status of the program, and in order to implement the provisions of the Agreement, the Government of the Republic of Senegal acknowledges the following reports which must be submitted by the Government of Senegal to the Government of the United States on the dates for each report:

ECHEANCE/DATE DUE	RAPPORT/REPORT	SERVICE RESPONSABLE/ RESPONSIBLE OFFICE
Vingt jours (20) après le débarquement de chaque bateau	- Rapport sur l'expédition et l'arrivée des denrées	Caisse de Stabilisation et le Secrétariat
Twenty days (20) after completion of unloading of each ship	Shipping and arrival report	Stabilization Fund and Secretariate
15 Janvier January 15	- Rapport sur l'application des dispositions de l'Accord durant la période Octobre-Décembre	Caisse de Stabilisation et le Secrétariat
	Compliance report covering October-December	Stabilization Fund and Secretariate
15 Avril April 15	- Rapport sur l'application des dispositions de l'Accord durant la période Janvier-Mars	Caisse de Stabilisation et le Secrétariat
	Compliance report covering January-March	Stabilization Fund and Secretariate
15 Juillet July 15	- Rapport sur l'application des dispositions de l'Accord durant la période Avril-Juin	Caisse de Stabilisation et le Secrétariat
	Compliance report covering April-June	Stabilization Fund and Secretariate
15 Octobre October 15	- Rapport sur l'application des dispositions de l'Accord durant la période Juillet-Septembre	Caisse de Stabilisation et le Secrétariat
	Compliance report covering July-September	Stabilization Fund and Secretariate
Mensuel Monthly	- Rapport mensuel (Relevé) sur l'activité financière du compte spécial	Directeur de Dette et des Investissements Publics, et le Secrétariat
	Monthly special account financial activity report	Director of Debt and Public Investments and Secretariate
Mensuel Monthly	- Rapport mensuel sur l'activité financière (relevé) des projets	Directeur de Dette et des Investissements Publics, et le Secretariat
	Monthly project account financial activity report	Director of Debt and Public Investments and Secretariate
15 Février February 15	- Rapport trimestriel sur les finances et activités, et l'état d'avancement	Comité de Gestion, Secretariat, et les Ministères concernés
	Quarterly financial, activity, and progress report	Management Commission, Secretariate, and relevant Ministries

15 Mai May 15	- Rapport trimestriel sur les finances, activités, et l'état d'avancement Quarterly financial, activity, and progress report	Comité de Gestion, Secrétariat, et les Ministères concernés Management Commission, Secretariate, and relevant Ministries
15 Août August 15	- Rapport trimestriel sur les finances, activités, et l'état d'avancement Quarterly financial, activity, and progress report	Comité de Gestion, Secrétariat, et les Ministères concernés Management Commission, Secretariate, and relevant Ministries
15 Novembre November 15	- Rapport trimestriel sur les finances, activités, et l'état d'avancement Quarterly financial, activity, and progress report	Comité de Gestion, Secrétariat, et les Ministères concernés Management Commission, Secretariate, and Relevant Ministries
20 Août August 20	- Rapport annuel sur les finances, activités, et état d'avancement du Programme Annual financial, activity, and progress report	Comité de Gestion, Secrétariat, et les Ministères concernés Management Commission, Secretariate, and relevant Ministries.

X. CONCLUSION

Le présent Protocole d'Entente entrera en vigueur après la signature de l'Accord entre le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République du Sénégal portant sur la Vente des Denrées Agricoles Constituant un Programme Alimentaire pour le Développement, Loi Publique 480, Titre III.

FAIT A DAKAR, en double exemplaire,

le 16 mai 1980

POUR LE GOUVERNEMENT DE LA REPUBLIQUE DU SENEGAL

Ousmane SECK
Ministre de l'Economie et des Finances

X. CONCLUSION

This Memorandum of Understanding shall enter into force upon signature of the Agreement between the Government of the United States of America and the Government of the Republic of Senegal for Sales of Agricultural Commodities Constituting a Public Law 480 Food For Development (Title III) Program.

DONE AT DAKAR, in duplicate,

this 16th day of May 1980

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Herman COHEN,
Ambassador of the United States of America

[AMENDING AGREEMENT]

The American Ambassador to the Senegalese Minister of Finance and Economic Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

USAID/Senegal
American Embassy
B.P. 49
Dakar, Senegal

December 23, 1980

Mr. Ousmane SECK
Minister of Finance and
Economic Affairs
Dakar

Our Ref.: AID/FFP/80

Subject : PL-480 TITLE III AGREEMENT - AMENDMENT NO. 1

Excellency;

I have the honor to refer to the Agricultural Commodity Agreement signed by Representatives of our two Governments on May 16, 1980, and to propose that Part II, Particular Provisions of that Agreement be amended as follows:

"ITEM I - COMMODITY TABLE

Supply Period (U.S. Fiscal Year): 1981

Approximate Quantity (Metric Tons): 14,700 MT(A)

Maximum Export Market Value (Million): Dols 7.0

Totals: 36,000 metric tons; U.S. Dols 14.0 million

(A) Refer to Footnote (A) in original Agreement page 16.

ITEM III - USUAL MARKETING TABLE

Import Period (U.S. Fiscal Year): 1981

Usual Marketing Requirement (Metric Tons): 202,000 MT

In view of the delay in signing the FY 80 Agreement and the resultant delay in generating the local currency for the developmental purpose stated in the Agreement, the Governments of the exporting and importing countries have agreed that the years of the three-year Food For Development Program will be changed from FY 1980, FY 1981, and FY 1982 respectively, to FY 1981, FY 1982, and FY 1983 respectively. The benchmarks formerly applicable to FY 1980, FY 1981 and FY 1982 are now applicable to FY 1981, FY 1982, and FY 1983

All other terms and conditions of the May 16, 1980 Agreement remain the same."

If the foregoing is acceptable to your Government, I propose that this letter together with your reply thereto, constitute an Agreement between our two Governments, effective the date of your letter in reply.

Accept, Excellency, the assurances of my highest regards.

Walter C. Carrington
U.S. Ambassador

The Senegalese Minister of Finance and Economic Affairs to the American Ambassador

LD/rd 24.12.80
REPUBLIQUE DU SENEGAL
MINISTERE DE L'ECONOMIE ET DES FINANCES
Direction Générale des Finances
Direction de la Dette et des Investissements

Dakar le 23 DEC. 1980

№ 10858

Le Ministre de l'Economie et des Finances

à Monsieur Walter C. CARRINGTON
Ambassadeur des Etats-Unis d'Amérique à

DAKAR

20-09

REFERENCE : V/Lettre N° AID/FFP/80

O B J E T : Accord PL 480 - Titre III du 16 Mai 1980 Amendement N° 1.-

Excellence,

J'accuse réception de votre lettre en référence, relative aux propositions d'amendement de l'accord en objet dans sa deuxième partie, comme suit :

"CHAPITRE I - TABLEAU DES PRODUITS

Période pour laquelle la denrée est fournie (année financière américaine) : 1981

Quantité approximative : 14 700 (Tonnes Métriques

Valeur maximum du prix du marché à l'exportation (en million de dollars) : 7 Millions de dollars

Total approximatif : 36 000 Tonnes métriques ; 14 Millions dollars US.

CHAPITRE III - TABLEAU DES IMPORTATIONS NORMALES

Année d'Importation : 1981 (année financière américaine)

Obligations relatives au marché habituel
(en tonnes métriques) : 202.000 TM.

Etant donné le retard pris dans la signature de l'Accord pour l'année financière 1980, et en conséquence le délai pour produire la monnaie locale destinée à des fins de développement comme indiqué dans l'Accord, les Gouvernements du pays exportateur et du pays importateur sont convenus que la période de trois (3) ans du Programme Alimentaire pour le Développement soit modifiée comme suit : AF 1980, AF 1981 et AF 1982 deviennent respectivement AF 1981, AF 1982 et AF 1983.

Les indications portant précédemment sur les années financières 1980, 1981 et 1982, s'appliquent désormais sur les années financières 1981, 1982 et 1983".

Les autres clauses et termes de l'Accord du 16 Mai 1980 restent inchangés."

En réponse, je vous marque mon accord à ces amendements et vous prie de bien vouloir considérer votre lettre et ma réponse comme constituant un accord entre nos deux Gouvernement qui entrera en vigueur à la date de la présente.

Veuillez agréer,Excellence, l'assurance de ma considération distinguée.-

Pour le Ministre de l'Economie
et des Finances Absent
LE MINISTRE DU DEVELOPPEMENT RURAL
CHARGE DE L'INTERIM

Djibril SENE

TRANSLATION

Republic of Senegal
Ministry of Finance and Economic Affairs
Economic Affairs Bureau
Debt and Investment Office

No. 10858 Dakar, December 23, 1980

Mr. Walter C. Carrington
Ambassador of the United States
of America
Dakar

Reference: Your letter No. AID/FFP/80

Subject: PL-480 Title III Agreement of May 16, 1980 - Amendment No. 1

Excellency:

I acknowledge receipt of your letter referenced above in which you propose that Part II of the aforementioned agreement be amended as follows:

[For the English language text, see pp. 3471-3472.]

In reply, I agree to these changes and request you to consider your letter and my reply as an agreement between our two Governments that shall enter into force on the date of this reply.

Accept, Excellency, the assurances of my distinguished consideration.

For the Minister of Finance and
Economic Affairs:

Djibril Sene

Djibril Sene
Minister of Rural Development

[SEAL]

MULTILATERAL

Conservation: Antarctic Marine Living Resources

Convention done at Canberra May 20, 1980, as rectified by the procés-verbaux of March 18 and August 28, 1981;
Transmitted by the President of the United States of America to the Senate December 2, 1980 (S. Ex. X, 96th Cong., 2d Sess.);
Reported favorably by the Senate Committee on Foreign Relations November 30, 1981 (S. Ex. Rept. No. 97–38, 97th Cong., 1st Sess.);
Advice and consent to ratification, as rectified, by the Senate December 16, 1981;
Ratified, as rectified, by the President February 2, 1982;
Ratification of the United States of America deposited with the Government of Australia February 18, 1982;
Proclaimed by the President March 29, 1982;
Entered into force April 7, 1982.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention on the Conservation of Antarctic Marine Living Resources, adopted at Canberra on May 20, 1980, was signed on behalf of the United States of America on September 11, 1980, and a proces-verbal of rectification was issued on March 18, 1981, the texts of which are hereto annexed; [1]

The Senate of the United States of America by its resolution of December 16, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention, with proces-verbal of rectification;

The President of the United States of America on February 2, 1982, ratified the Convention, with proces-verbal of rectification, in pursuance of the advice and consent of the Senate, and the United States of America deposited its instrument of ratification with the Government of Australia on February 18, 1982;

Pursuant to the provisions of the Convention, the Convention, as rectified, enters into force for the United States of America on April 7, 1982;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaimed and make public the Convention, as rectified, to the end that it shall be observed and fulfilled with good faith on and after April 7, 1982, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-ninth day of March in the year of our Lord one thousand nine hundred eighty-two [SEAL] and of the Independence of the United States of America the two hundred sixth.

RONALD REAGAN

By the President:
ALEXANDER M. HAIG JR
Secretary of State

[1] The text of the convention which appears herein incorporates the corrections set forth in the proces-verbaux of March 18 and August 28, 1981, the latter correcting the Russian text only.

CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES

The Contracting Parties,

RECOGNISING the importance of safeguarding the environment and protecting the integrity of the ecosystem of the seas surrounding Antarctica;

NOTING the concentration of marine living resources found in Antarctic waters and the increased interest in the possibilities offered by the utilization of these resources as a source of protein;

CONSCIOUS of the urgency of ensuring the conservation of Antarctic marine living resources;

CONSIDERING that it is essential to increase knowledge of the Antarctic marine ecosystem and its components so as to be able to base decisions on harvesting on sound scientific information;

BELIEVING that the conservation of Antarctic marine living resources calls for international co-operation with due regard for the provisions of the Antarctic Treaty [1] and with the active involvement of all States engaged in research or harvesting activities in Antarctic waters;

RECOGNISING the prime responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the Antarctic environment and, in particular, their responsibilities under Article IX, paragraph 1 (f) of the Antarctic Treaty in respect of the preservation and conservation of living resources in Antarctica;

RECALLING the action already taken by the Antarctic Treaty Consultative Parties including in particular the Agreed Measures for the Conservation of Antarctic Fauna and Flora, [2] as well as the provisions of the Convention for the Conservation of Antarctic Seals; [3]

BEARING in mind the concern regarding the conservation of Antarctic marine living resources expressed by the Consultative Parties at the Ninth Consultative Meeting of the Antarctic Treaty and the importance of the provisions of Recommendation IX-2 which led to the establishment of the present Convention;

BELIEVING that it is in the interest of all mankind to preserve the waters surrounding the Antarctic continent for peaceful purposes only and to prevent their becoming the scene or object of international discord;

RECOGNISING, in the light of the foregoing, that it is desirable to establish suitable machinery for recommending, promoting, deciding upon and co-ordinating the

[1] Signed Dec. 1, 1959. TIAS 4780; 12 UST 794.
[2] Adopted June 2–13, 1964. TIAS 6058, 7692; 17 UST 991; 24 UST 1802.
[3] Done June 1, 1972. TIAS 8826; 29 UST 441.

measures and scientific studies needed to ensure the conservation of Antarctic marine living organisms;

HAVE AGREED as follows:

ARTICLE I

1. This Convention applies to the Antarctic marine living resources of the area south of 60° South latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

2. Antarctic marine living resources means the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.

3. The Antarctic marine ecosystem means the complex of relationships of Antarctic marine living resources with each other and with their physical environment.

4. The Antarctic Convergence shall be deemed to be a line joining the following points along parallels of latitude and meridians of longitude:

   50°S, 0°; 50°S, 30°E; 45°S, 30°E; 45°S, 80°E; 55°S, 80°E; 55°S, 150°E; 60°S, 150°E; 60°S, 50°W; 50°S, 50°W; 50°S, 0°.

ARTICLE II

1. The objective of this Convention is the conservation of Antarctic marine living resources.

2. For the purposes of this Convention, the term "conservation" includes rational use.

3. Any harvesting and associated activities in the area to which this Convention applies shall be conducted in accordance with the provisions of this Convention and with the following principles of conservation:

   (a) prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment. For this purpose its size should not be allowed to fall below a level close to that which ensures the greatest net annual increment;

(b) maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and the restoration of depleted populations to the levels defined in sub-paragraph (a) above;

and

(c) prevention of changes or minimization of the risk of changes in the marine ecosystem which are not potentially reversible over two or three decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effect of the introduction of alien species, the effects of associated activities on the marine ecosystem and of the effects of environmental changes, with the aim of making possible the sustained conservation of Antarctic marine living resources.

ARTICLE III

The Contracting Parties, whether or not they are Parties to the Antarctic Treaty, agree that they will not engage in any activities in the Antarctic Treaty area contrary to the principles and purposes of that Treaty and that, in their relations with each other, they are bound by the obligations contained in Articles I and V of the Antarctic Treaty.

ARTICLE IV

1. With respect to the Antarctic Treaty area, all Contracting Parties, whether or not they are Parties to the Antarctic Treaty, are bound by Articles IV and VI of the Antarctic Treaty in their relations with each other.

2. Nothing in this Convention and no acts or activities taking place while the present Convention is in force shall:

(a) constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the Antarctic Treaty area or create any rights of sovereignty in the Antarctic Treaty area;

(b) be interpreted as a renunciation or diminution by any Contracting Party of, or as prejudicing, any right or claim or basis of claim to exercise coastal state jurisdiction under international law within the area to which this Convention applies;

(c) be interpreted as prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any such right, claim or basis of claim;

(d) affect the provision of Article IV, paragraph 2, of the Antarctic Treaty that no new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the Antarctic Treaty is in force.

ARTICLE V

1. The Contracting Parties which are not Parties to the Antarctic Treaty acknowledge the special obligations and responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the environment of the Antarctic Treaty area.

2. The Contracting Parties which are not Parties to the Antarctic Treaty agree that, in their activities in the Antarctic Treaty area, they will observe as and when appropriate the Agreed Measures for the Conservation of Antarctic Fauna and Flora and such other measures as have been recommended by the Antarctic Treaty Consultative Parties in fulfilment of their responsibility for the protection of the Antarctic environment from all forms of harmful human interference.

3. For the purposes of this Convention, "Antarctic Treaty Consultative Parties" means the Contracting Parties to the Antarctic Treaty whose Representatives participate in meetings under Article IX of the Antarctic Treaty.

ARTICLE VI

Nothing in this Convention shall derogate from the rights and obligations of Contracting Parties under the International Convention for the Regulation of Whaling [1] and the Convention for the Conservation of Antarctic Seals.

[1] Signed Dec. 2, 1946. TIAS 1849, 4228; 62 Stat. 1716; 4 Bevans 248; 10 UST 952.

ARTICLE VII

1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as "the Commission").

2. Membership in the Commission shall be as follows:

(a) each Contracting Party which participated in the meeting at which this Convention was adopted shall be a Member of the Commission;

(b) each State Party which has acceded to this Convention pursuant to Article XXIX shall be entitled to be a Member of the Commission during such time as that acceding Party is engaged in research or harvesting activities in relation to the marine living resources to which this Convention applies;

(c) each regional economic integration organization which has acceded to this Convention pursuant to Article XXIX shall be entitled to be a Member of the Commission during such time as its States members are so entitled;

(d) a Contracting Party seeking to participate in the work of the Commission pursuant to sub-paragraphs (b) and (c) above shall notify the Depositary of the basis upon which it seeks to become a Member of the Commission and of its willingness to accept conservation measures in force. The Depositary shall communicate to each Member of the Commission such notification and accompanying information. Within two months of receipt of such communication from the Depositary, any Member of the Commission may request that a special meeting of the Commission be held to consider the matter. Upon receipt of such request, the Depositary shall call such a meeting. If there is no request for a meeting, the Contracting Party submitting the notification shall be deemed to have satisfied the requirements for Commission Membership.

3. Each Member of the Commission shall be represented by one representative who may be accompanied by alternate representatives and advisers.

ARTICLE VIII

The Commission shall have legal personality and shall enjoy in the territory of each of the States Parties such legal capacity as may be necessary to perform its function and

achieve the purposes of this Convention. The privileges and immunities to be enjoyed by the Commission and its staff in the territory of a State Party shall be determined by agreement between the Commission and the State Party concerned.

ARTICLE IX

1. The function of the Commission shall be to give effect to the objective and principles set out in Article II of this Convention. To this end, it shall:

   (a) facilitate research into and comprehensive studies of Antarctic marine living resources and of the Antarctic marine ecosystem;

   (b) compile data on the status of and changes in population of Antarctic marine living resources and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;

   (c) ensure the acquisition of catch and effort statistics on harvested populations;

   (d) analyse, disseminate and publish the information referred to in sub-paragraphs (b) and (c) above and the reports of the Scientific Committee;

   (e) identify conservation needs and analyse the effectiveness of conservation measures;

   (f) formulate, adopt and revise conservation measures on the basis of the best scientific evidence available, subject to the provisions of paragraph 5 of this Article;

   (g) implement the system of observation and inspection established under Article XXIV of this Convention;

   (h) carry out such other activities as are necessary to fulfil the objective of this Convention.

2. The conservation measures referred to in paragraph 1 (f) above include the following:

   (a) the designation of the quantity of any species which may be harvested in the area to which this Convention applies;

(b) the designation of regions and sub-regions based on the distribution of populations of Antarctic marine living resources;

(c) the designation of the quantity which may be harvested from the populations of regions and sub-regions;

(d) the designation of protected species;

(e) the designation of the size, age and, as appropriate, sex of species which may be harvested;

(f) the designation of open and closed seasons for harvesting;

(g) the designation of the opening and closing of areas, regions or sub-regions for purposes of scientific study or conservation, including special areas for protection and scientific study;

(h) regulation of the effort employed and methods of harvesting, including fishing gear, with a view, inter alia, to avoiding undue concentration of harvesting in any region or sub-region;

(i) the taking of such other conservation measures as the Commission considers necessary for the fulfilment of the objective of this Convention, including measures concerning the effects of harvesting and associated activities on components of the marine ecosystem other than the harvested populations.

3. The Commission shall publish and maintain a record of all conservation measures in force.

4. In exercising its functions under paragraph 1 above, the Commission shall take full account of the recommendations and advice of the Scientific Committee.

5. The Commission shall take full account of any relevant measures or regulations established or recommended by the Consultative Meetings pursuant to Article IX of the Antarctic Treaty or by existing fisheries commissions responsible for species which may enter the area to which this Convention applies, in order that there shall be no inconsistency between the rights and obligations of a Contracting Party under such regulations or measures and conservation measures which may be adopted by the Commission.

6. Conservation measures adopted by the Commission in accordance with this Convention shall be implemented by Members of the Commission in the following manner:

(a) the Commission shall notify conservation measures to all Members of the Commission;

(b) conservation measures shall become binding upon all Members of the Commission 180 days after such notification, except as provided in sub-paragraphs (c) and (d) below;

(c) if a Member of the Commission, within ninety days following the notification specified in sub-paragraph (a), notifies the Commission that it is unable to accept the conservation measure, in whole or in part, the measure shall not, to the extent stated, be binding upon that Member of the Commission;

(d) in the event that any Member of the Commission invokes the procedure set forth in sub-paragraph (c) above, the Commission shall meet at the request of any Member of the Commission to review the conservation measure. At the time of such meeting and within thirty days following the meeting, any Member of the Commission shall have the right to declare that it is no longer able to accept the conservation measure, in which case the Member shall no longer be bound by such measure.

ARTICLE X

1. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels which, in the opinion of the Commission, affects the implementation of the objective of this Convention.

2. The Commission shall draw the attention of all Contracting Parties to any activity which, in the opinion of the Commission, affects the implementation by a Contracting Party of the objective of this Convention or the compliance by that Contracting Party with its obligations under this Convention.

ARTICLE XI

The Commission shall seek to co-operate with Contracting Parties which may exercise jurisdiction in marine areas adjacent to the area to which this Convention applies in respect of the conservation of any stock or stocks of associated species which occur both within those areas and the area to which this Convention applies, with a view to harmonizing the conservation measures adopted in respect of such stocks.

ARTICLE XII

1. Decisions of the Commission on matters of substance shall be taken by consensus. The question of whether a matter is one of substance shall be treated as a matter of substance.

2. Decisions on matters other than those referred to in paragraph 1 above shall be taken by a simple majority of the Members of the Commission present and voting.

3. In Commission consideration of any item requiring a decision, it shall be made clear whether a regional economic integration organization will participate in the taking of the decision and, if so, whether any of its member States will also participate. The number of Contracting Parties so participating shall not exceed the number of member States of the regional economic integration organization which are Members of the Commission.

4. In the taking of decisions pursuant to this Article, a regional economic integration organization shall have only one vote.

ARTICLE XIII

1. The headquarters of the Commission shall be established at Hobart, Tasmania, Australia.

2. The Commission shall hold a regular annual meeting. Other meetings shall also be held at the request of one-third of its members and as otherwise provided in this Convention. The first meeting of the Commission shall be held within three months of the entry into force of this Convention, provided that among the Contracting Parties there are at least two States conducting harvesting activities within

the area to which this Convention applies. The first meeting shall, in any event, be held within one year of the entry into force of this Convention. The Depositary shall consult with the signatory States regarding the first Commission meeting, taking into account that a broad representation of such States is necessary for the effective operation of the Commission.

3. The Depositary shall convene the first meeting of the Commission at the headquarters of the Commission. Thereafter, meetings of the Commission shall be held at its headquarters, unless it decides otherwise.

4. The Commission shall elect from among its members a Chairman and Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election for one additional term. The first Chairman shall, however, be elected for an initial term of three years. The Chairman and Vice-Chairman shall not be representatives of the same Contracting Party.

5. The Commission shall adopt and amend as necessary the rules of procedure for the conduct of its meetings, except with respect to the matters dealt with in Article XII of this Convention.

6. The Commission may establish such subsidiary bodies as are necessary for the performance of its functions.

ARTICLE XIV

1. The Contracting Parties hereby establish the Scientific Committee for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as "the Scientific Committee") which shall be a consultative body to the Commission. The Scientific Committee shall normally meet at the headquarters of the Commission unless the Scientific Committee decides otherwise.

2. Each Member of the Commission shall be a member of the Scientific Committee and shall appoint a representative with suitable scientific qualifications who may be accompanied by other experts and advisers.

3. The Scientific Committee may seek the advice of other scientists and experts as may be required on an ad hoc basis.

ARTICLE XV

1. The Scientific Committee shall provide a forum for consultation and co-operation concerning the collection, study and exchange of information with respect to the marine living resources to which this Convention applies. It shall encourage and promote co-operation in the field of scientific research in order to extend knowledge of the marine living resources of the Antarctic marine ecosystem.

2. The Scientific Committee shall conduct such activities as the Commission may direct in pursuance of the objective of this Convention and shall:

   (a) establish criteria and methods to be used for determinations concerning the conservation measures referred to in Article IX of this Convention;

   (b) regularly assess the status and trends of the populations of Antarctic marine living resources;

   (c) analyse data concerning the direct and indirect effects of harvesting on the populations of Antarctic marine living resources;

   (d) assess the effects of proposed changes in the methods or levels of harvesting and proposed conservation measures;

   (e) transmit assessments, analyses, reports and recommendations to the Commission as requested or on its own initiative regarding measures and research to implement the objective of this Convention;

   (f) formulate proposals for the conduct of international and national programs of research into Antarctic marine living resources.

3. In carrying out its functions, the Scientific Committee shall have regard to the work of other relevant technical and scientific organizations and to the scientific activities conducted within the framework of the Antarctic Treaty.

ARTICLE XVI

1. The first meeting of the Scientific Committee shall be held within three months of the first meeting of the Commission. The Scientific Committee shall meet thereafter as often as may be necessary to fulfil its functions.

2. The Scientific Committee shall adopt and amend as necessary its rules of procedure. The rules and any amendments thereto shall be approved by the Commission. The rules shall include procedures for the presentation of minority reports.

3. The Scientific Committee may establish, with the approval of the Commission, such subsidiary bodies as are necessary for the performance of its functions.

ARTICLE XVII

1. The Commission shall appoint an Executive Secretary to serve the Commission and Scientific Committee according to such procedures and on such terms and conditions as the Commission may determine. His term of office shall be for four years and he shall be eligible for re-appointment.

2. The Commission shall authorize such staff establishment for the Secretariat as may be necessary and the Executive Secretary shall appoint, direct and supervise such staff according to such rules, and procedures and on such terms and conditions as the Commission may determine.

3. The Executive Secretary and Secretariat shall perform the functions entrusted to them by the Commission.

ARTICLE XVIII

The official languages of the Commission and of the Scientific Committee shall be English, French, Russian and Spanish.

ARTICLE XIX

1. At each annual meeting, the Commission shall adopt by consensus its budget and the budget of the Scientific Committee.

2. A draft budget for the Commission and the Scientific Committee and any subsidiary bodies shall be prepared by the Executive Secretary and submitted to the Members of the Commission at least sixty days before the annual meeting of the Commission.

3. Each Member of the Commission shall contribute to the budget. Until the expiration of five years after the entry into force of this Convention, the contribution of each Member of the Commission shall be equal. Thereafter the contribution shall be determined in accordance with two criteria: the amount harvested and an equal sharing among all Members of the Commission. The Commission shall determine by consensus the proportion in which these two criteria shall apply.

4. The financial activities of the Commission and Scientific Committee shall be conducted in accordance with financial regulations adopted by the Commission and shall be subject to an annual audit by external auditors selected by the Commission.

5. Each Member of the Commission shall meet its own expenses arising from attendance at meetings of the Commission and of the Scientific Committee.

6. A Member of the Commission that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Commission.

ARTICLE XX

1. The Members of the Commission shall, to the greatest extent possible, provide annually to the Commission and to the Scientific Committee such statistical, biological and other data and information as the Commission and Scientific Committee may require in the exercise of their functions.

2. The Members of the Commission shall provide, in the manner and at such intervals as may be prescribed, information about their harvesting activities, including fishing areas and vessels, so as to enable reliable catch and effort statistics to be compiled.

3. The Members of the Commission shall provide to the Commission at such intervals as may be prescribed information on steps taken to implement the conservation measures adopted by the Commission.

4. The Members of the Commission agree that in any of their harvesting activities, advantage shall be taken of opportunities to collect data needed to assess the impact of harvesting.

ARTICLE XXI

1. Each Contracting Party shall take appropriate measures within its competence to ensure compliance with the provisions of this Convention and with conservation measures adopted by the Commission to which the Party is bound in accordance with Article IX of this Convention.

2. Each Contracting Party shall transmit to the Commission information on measures taken pursuant to paragraph 1 above, including the imposition of sanctions for any violation.

ARTICLE XXII

1. Each Contracting Party undertakes to exert appropriate efforts, consistent with the Charter of the United Nations,[1] to the end that no one engages in any activity contrary to the objective of this Convention.

2. Each Contracting Party shall notify the Commission of any such activity which comes to its attention.

ARTICLE XXIII

1. The Commission and the Scientific Committee shall co-operate with the Antarctic Treaty Consultative Parties on matters falling within the competence of the latter.

2. The Commission and the Scientific Committee shall co-operate, as appropriate, with the Food and Agriculture Organisation of the United Nations and with other Specialised Agencies.

3. The Commission and the Scientific Committee shall seek to develop co-operative working relationships, as appropriate, with inter-governmental and non-governmental organizations which could contribute to their work, including the Scientific Committee on Antarctic Research, the Scientific Committee on Oceanic Research and the International Whaling Commission.

4. The Commission may enter into agreements with the organizations referred to in this Article and with other organizations as may be appropriate. The Commission and the Scientific Committee may invite such organizations to send observers to their meetings and to meetings of their subsidiary bodies.

[1] Signed June 26, 1945. TS 993; 59 Stat. 1031; 3 Bevans 1153.

ARTICLE XXIV

1. In order to promote the objective and ensure observance of the provisions of this Convention, the Contracting Parties agree that a system of observation and inspection shall be established.

2. The system of observation and inspection shall be elaborated by the Commission on the basis of the following principles:

   (a) Contracting Parties shall co-operate with each other to ensure the effective implementation of the system of observation and inspection, taking account of the existing international practice. This system shall include, inter alia, procedures for boarding and inspection by observers and inspectors designated by the Members of the Commission and procedures for flag state prosecution and sanctions on the basis of evidence resulting from such boarding and inspections. A report of such prosecutions and sanctions imposed shall be included in the information referred to in Article XXI of this Convention;

   (b) in order to verify compliance with measures adopted under this Convention, observation and inspection shall be carried out on board vessels engaged in scientific research or harvesting of marine living resources in the area to which this Convention applies, through observers and inspectors designated by the Members of the Commission and operating under terms and conditions to be established by the Commission;

   (c) designated observers and inspectors shall remain subject to the jurisdiction of the Contracting Party of which they are nationals. They shall report to the Member of the Commission by which they have been designated which in turn shall report to the Commission.

3. Pending the establishment of the system of observation and inspection, the Members of the Commission shall seek to establish interim arrangements to designate observers and inspectors and such designated observers and inspectors shall be entitled to carry out inspections in accordance with the principles set out in paragraph 2 above.

ARTICLE XXV

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of this Convention, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

2. Any dispute of this character not so resolved shall, with the consent in each case of all Parties to the dispute, be referred for settlement to the International Court of Justice or to arbitration; but failure to reach agreement on reference to the International Court or to arbitration shall not absolve Parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 above.

3. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this Convention.

ARTICLE XXVI

1. This Convention shall be open for signature at Canberra from 1 August to 31 December 1980 by the States participating in the Conference on the Conservation of Antarctic Marine Living Resources held at Canberra from 7 to 20 May 1980.

2. The States which so sign will be the original signatory States of the Convention.

ARTICLE XXVII

1. This Convention is subject to ratification, acceptance or approval by signatory States.

2. Instruments of ratification, acceptance or approval shall be deposited with the Government of Australia, hereby designated as the Depositary.

ARTICLE XXVIII

1. This Convention shall enter into force on the thirtieth day following the date of deposit of

the eighth instrument of ratification, acceptance or approval by States referred to in paragraph 1 of Article XXVI of this Convention.

2. With respect to each State or regional economic integration organization which subsequent to the date of entry into force of this Convention deposits an instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day following such deposit.

ARTICLE XXIX

1. This Convention shall be open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which this Convention applies.

2. This Convention shall be open for accession by regional economic integration organizations constituted by sovereign States which include among their members one or more States Members of the Commission and to which the States members of the organization have transferred, in whole or in part, competences with regard to the matters covered by this Convention. The accession of such regional economic integration organizations shall be the subject of consultations among Members of the Commission.

ARTICLE XXX

1. This Convention may be amended at any time.

2. If one-third of the Members of the Commission request a meeting to discuss a proposed amendment the Depositary shall call such a meeting.

3. An amendment shall enter into force when the Depositary has received instruments of ratification, acceptance or approval thereof from all the Members of the Commission.

4. Such amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification, acceptance or approval by it has been received by the Depositary. Any such Contracting Party from which no such notice has been received within a period of one year from the date of entry into force of the amendment in accordance with paragraph 3 above shall be deemed to have withdrawn from this Convention.

ARTICLE XXXI

1. Any Contracting Party may withdraw from this Convention on 30 June of any year, by giving written notice not later than 1 January of the same year to the Depositary, which, upon receipt of such a notice, shall communicate it forthwith to the other Contracting Parties.

2. Any other Contracting Party may, within sixty days of the receipt of a copy of such a notice from the Depositary, give written notice of withdrawal to the Depositary in which case the Convention shall cease to be in force on 30 June of the same year with respect to the Contracting Party giving such notice.

3. Withdrawal from this Convention by any Member of the Commission shall not affect its financial obligations under this Convention.

ARTICLE XXXII

The Depositary shall notify all Contracting Parties of the following:

(a) signatures of this Convention and the deposit of instruments of ratification, acceptance, approval or accession;

(b) the date of entry into force of this Convention and of any amendment thereto.

ARTICLE XXXIII

1. This Convention, of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Government of Australia which shall transmit duly certified copies thereof to all signatory and acceding Parties.

2. This Convention shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

Drawn up at Canberra this twentieth day of May 1980.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Convention.

ANNEX FOR AN ARBITRAL TRIBUNAL

1. The arbitral tribunal referred to in paragraph 3 of Article XXV shall be composed of three arbitrators who shall be appointed as follows:

a) The Party commencing proceedings shall communicate the name of an arbitrator to the other Party which, in turn, within a period of forty days following such notification, shall communicate the name of the second arbitrator. The Parties shall, within a period of sixty days following the appointment of the second arbitrator, appoint the third arbitrator, who shall not be a national of either Party and shall not be of the same nationality as either of the first two arbitrators. The third arbitrator shall preside over the tribunal.

b) If the second arbitrator has not been appointed within the prescribed period, or if the Parties have not reached agreement within the prescribed period on the appointment of the third arbitrator, that arbitrator shall be appointed, at the request of either Party, by the Secretary-General of the Permanent Court of Arbitration, from among persons of international standing not having the nationality of a State which is a Party to this Convention.

2. The arbitral tribunal shall decide where its headquarters will be located and shall adopt its own rules of procedure.

3. The award of the arbitral tribunal shall be made by a majority of its members, who may not abstain from voting.

4. Any Contracting Party which is not a Party to the dispute may intervene in the proceedings with the consent of the arbitral tribunal.

5. The award of the arbitral tribunal shall be final and binding on all Parties to the dispute and on any Party which intervenes in the proceedings and shall be complied with without delay. The arbitral tribunal shall interpret the award at the request of one of the Parties to the dispute or of any intervening Party.

6. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares.

CONVENTION SUR LA CONSERVATION DE LA FAUNE ET LA FLORE MARINES DE L'ANTARCTIQUE

Les Parties contractantes,

RECONNAISSANT l'importance de la protection de l'environnement et de la préservation de l'intégrité de l'écosystème des mers qui entourent l'Antarctique;

CONSTATANT la concentration de la faune et la flore dans les eaux de l'Antarctique et l'intérêt accru que soulèvent les possibilités offertes par l'utilisation de ces ressources comme source de protéines;

CONSCIENTES de l'urgence d'assurer la conservation de la faune et la flore marines de l'Antarctique;

CONSIDERANT qu'il est essentiel d'approfondir les connaissances sur l'écosystème marin antarctique et ses composants afin de permettre une prise de décision concernant la capture fondée sur des informations scientifiques pertinentes;

ESTIMANT que la conservation de la faune et la flore marines de l'Antarctique exige une coopération internationale qui prenne dûment en considération les dispositions du Traité sur l'Antarctique et implique la participation active de tous les Etats ayant des activités de recherche ou de capture dans les eaux de l'Antarctique;

RECONNAISSANT les responsabilités particulières des Parties consultatives au Traité sur l'Antarctique quant à la protection et à la préservation du milieu antarctique, et en particulier les responsabilités que leur confère le paragraphe 1f) de l'Article IX du Traité sur l'Antarctique en matière de protection et de conservation de la faune et la flore dans l'Antarctique;

RAPPELANT l'action déjà menée par les Parties consultatives au Traité sur l'Antarctique, notamment les Mesures convenues pour la protection de la faune et la flore dans l'Antarctique, et les dispositions de la Convention pour la protection des phoques de l'Antarctique;

TENANT COMPTE de la préoccupation exprimée par les Parties consultatives à la neuvième Réunion consultative du Traité sur l'Antarctique au sujet de la conservation de la faune et la flore marines de l'Antarctique, ainsi que de l'importance des dispositions de la Recommandation IX-2, qui a abouti à l'établissement de la présente Convention;

PERSUADEES qu'il est dans l'intérêt de l'humanité tout entière de réserver les eaux entourant l'Antarctique à des fins exclusivement pacifiques et d'éviter qu'elles ne deviennent le théâtre ou l'enjeu de différends internationaux;

RECONNAISSANT, compte tenu de ce qui précède, qu'il est souhaitable d'instituer un mécanisme dont le rôle serait de recommander, de promouvoir, de décider et de coordonner les mesures et études scientifiques nécessaires à la conservation des organismes marins vivants de l'Antarctique;

SONT CONVENUES de ce qui suit:

ARTICLE PREMIER

1. La présente Convention s'applique aux ressources marines vivantes de la zone située au sud du 60ème degré de latitude Sud et aux ressources marines vivantes de la zone comprise entre cette latitude et la convergence antarctique qui font partie de l'écosystème marin antarctique.

2. L'expression "ressources marines vivantes de l'Antarctique" désigne les populations de poissons à nageoires, de mollusques, de crustacés et de toutes les autres espèces d'organismes vivants, y compris les oiseaux, qui se trouvent au sud de la convergence antarctique;

3. L'expression "écosystème marin antarctique" désigne l'ensemble des rapports de ces ressources marines vivantes de l'Antarctique entre elles et avec leur milieu physique.

4. La Convergence antarctique est définie comme la ligne joignant les points suivants le long des parallèles et des méridiens:

50°S, 0°; 50°S, 30°E; 45°S, 30°E; 45°S, 80°E; 55°S, 80°E; 55°S, 150°E; 60°S, 150°E; 60°S, 50°W; 50°S, 50°W; 50°S, 0°.

ARTICLE II

1. La présente Convention a pour objectif la conservation des ressources marines vivantes de l'Antarctique.

2. Aux fins de la Convention, le terme "conservation" comprend la notion d'utilisation rationnelle.

3. Dans la zone d'application de la Convention, les captures et les activités connexes se font conformément aux dispositions de la Convention et aux principes de conservation suivants:

a) prévenir la diminution du volume de toute population exploitée en-deçà du niveau nécessaire au maintien de sa stabilité. A cette fin, il ne sera pas permis que ce volume descende en-deçà d'un niveau proche de celui qui assure l'accroissement maximum annuel net de la population;

b) maintenir les rapports écologiques entre les populations exploitées, dépendantes ou associées des ressources marines vivantes de l'Antarctique et reconstituer les populations exploitées aux niveaux définis à l'alinéa a); et

c) prévenir les modifications ou minimiser les risques de modifications de l'écosystème marin qui ne seraient pas potentiellement réversibles en deux ou trois décennies, compte tenu de l'état des connaissances disponibles en ce qui concerne les répercussions directes ou indirectes de l'exploitation, de l'effet de l'introduction d'espèces exogènes, des effets des activités connexes sur l'écosystème marin et de ceux des modifications du milieu, afin de permettre une conservation continue des ressources marines vivantes de l'Antarctique.

ARTICLE III

Les Parties contractantes, qu'elles soient ou non parties au Traité sur l'Antarctique, conviennent de ne pas mener dans la zone du Traité sur l'Antarctique d'activités qui aillent à l'encontre des principes et des objectifs de ce Traité et se reconnaissent liées, dans leurs rapports réciproques, par les obligations définies dans les Articles premier et V de ce Traité.

ARTICLE IV

1. En ce qui concerne la zone du Traité sur l'Antarctique, toutes les Parties Contractantes, qu'elles soient ou non parties à ce Traité, sont liées par les Articles IV et VI du Traité sur l'Antarctique dans leurs rapports réciproques.

2. Aucune disposition de la présente Convention, ni aucun acte ou activité intervenant pendant la durée de la présente Convention:

a) ne peut servir de base pour faire valoir, soutenir ou contester une revendication de souveraineté territoriale dans la zone du Traité sur l'Antarctique, ni créer de droits de souveraineté dans cette zone;

b) ne peut être interprété comme un abandon total ou partiel de la part d'aucune des Parties contractantes de tout droit ou revendication ou base de revendication d'exercer une juridiction d'Etat côtier en vertu du droit international à l'intérieur de la zone d'application de la Convention, ni comme portant atteinte à tel droit ou revendication ou base de revendication;

c) ne peut être interprété comme portant atteinte à la position d'aucune Partie contractante à l'égard de la reconnaissance ou la non-reconnaissance de tel droit ou revendication ou base de revendication;

d) ne peut porter atteinte à la disposition du paragraphe 2 de l'Article IV du Traité sur l'Antarctique en vertu de laquelle aucune revendication nouvelle, ni aucune extension d'une revendication de souveraineté territoriale dans l'Antarctique précédemment affirmée ne devra être présentée pendant la durée du Traité sur l'Antarctique.

ARTICLE V

1. Les Parties contractantes qui ne sont pas parties au Traité sur l'Antarctique reconnaissent les obligations et les responsabilités particulières des Parties consultatives au Traité sur l'Antarctique quant à la protection et la préservation de l'environnement dans la zone de ce Traité.

2. Les Parties contractantes qui ne sont pas parties au Traité sur l'Antarctique conviennent d'appliquer dans leurs activités dans la zone couverte par ce Traité, le cas échéant et en temps opportun, les Mesures convenues pour la protection de la faune et de la flore de l'Antarctique et les autres mesures qui ont été recommandées par les Parties consultatives dans l'exercice de leurs responsabilités quant à la protection de l'environnement antarctique contre toute forme d'ingérence humaine nuisible.

3. Aux fins de la présente Convention, l'expression "Parties consultatives au Traité sur l'Antarctique" désigne les Parties contractantes au Traité sur l'Antarctique dont les représentants participent aux réunions tenues conformément à l'Article IX de ce Traité.

ARTICLE VI

Aucune disposition de la présente Convention ne peut porter atteinte aux droits et obligations des Parties contractantes aux termes de la Convention internationale pour la réglementation de la chasse à la baleine et la Convention pour la protection des phoques de l'Antarctique.

ARTICLE VII

1. Il est établi par les Parties contractantes, qui conviennent d'en assurer le fonctionnement, une Commission pour la conservation de la faune et la flore marines de l'Antarctique, ci-après dénommée "la Commission".

2. La composition de la Commission est la suivante:

a) chaque Partie contractante qui a participé à la réunion au cours de laquelle la présente Convention a été adoptée, est membre de la Commission;

b) chaque Etat Partie qui aura adhéré à la présente Convention conformément à l'Article XXIX est habilité à être membre de la Commission tant que cette Partie adhérente se livre à des activités de recherche ou de capture en rapport avec la faune et la flore marines auxquelles s'applique la présente Convention;

c) chaque organisation d'intégration économique régionale qui aura adhéré à la présente Convention conformément à l'Article XXIX est habilitée à être membre de la Commission tant que ses Etats membres le sont;

d) une Partie contractante désireuse de participer aux travaux de la Commission conformément aux alinéas b) et c) ci-dessus notifiera au Dépositaire les motifs pour lesquels elle souhaite devenir membre de la Commission et sa volonté d'accepter les mesures de conservation en vigueur; Le Dépositaire communiquera cette notification et les informations connexes à chacun des membres de la Commission. Dans les deux mois suivant la réception de cette communication du Dépositaire, tout membre de la Commission pourra demander la tenue d'une réunion spéciale de la Commission pour examiner la question. A réception d'une telle demande, le Dépositaire convoquera la réunion demandée. En l'absence d'une demande de réunion, la Partie contractante qui présente la notification sera censée avoir rempli les conditions requises pour être membre de la Commission.

3. Chaque membre de la Commission y dispose d'un représentant, qui peut être accompagné de suppléants et de conseillers.

ARTICLE VIII

La Commission est dotée de la personnalité morale et jouit, sur le territoire de chacun des Etats Parties, de la capacité juridique qui lui est nécessaire pour s'acquitter de ses fonctions et réaliser les objectifs de la Convention. Les

privilèges et immunités dont la Commission et son personnel bénéficient sur le territoire d'un Etat Partie sont déterminés d'un commun accord par la Commission et l'Etat Partie intéressé.

ARTICLE IX

1. La Commission a pour fonction de mettre en oeuvre les objectifs et les principes définis à l'Article II. A cette fin:

   a) elle facilite la recherche et les études exhaustives sur les ressources marines vivantes et l'écosystème marin de l'Antarctique;

   b) elle rassemble des données sur l'état et l'évolution des populations de ressources marines vivantes de l'Antarctique et sur les facteurs affectant la distribution, l'abondance et la productivité des espèces exploitées et des espèces ou populations dépendantes ou associées;

   c) elle veille à l'acquisition de données statistiques sur les prises et les efforts mis en oeuvre en ce qui concerne les populations exploitées;

   d) elle analyse, diffuse et publie les informations visées aux alinéas b) et c), et les rapports du Comité scientifique;

   e) elle détermine les besoins en matière de conservation et analyse l'efficacité des mesures de conservation;

   f) elle élabore des mesures de conservation, les adopte et les révise sur la base des meilleures informations scientifiques disponibles, sous réserve des dispositions du paragraphe 5 du présent Article;

   g) elle met en oeuvre le système d'observation et de contrôle décrit à l'Article XXIV;

   h) elle mène toute autre activité jugée nécessaire à la réalisation des objectifs de la présente Convention.

2. Les Mesures de conservation visées à l'alinéa 1 f) portent sur:

   a) le volume de capture autorisé pour une espèce donnée dans la zone d'application de la Convention;

   b) la désignation de secteurs et de sous-secteurs selon la répartition des populations de ressources marines vivantes de l'Antarctique;

c) le volume de capture autorisé pour les populations des secteurs et des sous-secteurs;

d) la désignation des espèces protégées;

e) la taille, l'âge et, le cas échéant, le sexe des individus d'une espèce pouvant être capturés;

f) l'ouverture et la fermeture des périodes de capture autorisée;

g) l'ouverture ou la fermeture de zones, secteurs ou sous-secteurs à des fins d'étude scientifique ou de conservation, y compris celles de zones spéciales destinées à la protection et à l'étude scientifique;

h) la réglementation des méthodes de capture et des moyens mis en oeuvre, y compris les engins de pêche, afin d'éviter, entre autres, une concentration excessive des captures dans un secteur ou dans un sous-secteur;

i) les autres domaines où la Commission juge nécessaire d'intervenir en vue de la réalisation des objectifs de la Convention, y compris les effets des prises et des activités connexes sur des composants de l'écosystème marin autres que les populations exploitées.

3. La Commission publie et tient à jour le répertoire de toutes les mesures de conservation en vigueur.

4. Dans l'exercice des fonctions définies au paragraphe 1 du présent Article, la Commission tient pleinement compte des recommandations et des avis du Comité scientifique.

5. La Commission tient pleinement compte des mesures ou réglementations pertinentes établies ou recommandées par les Réunions consultatives tenues conformément à l'Article IX du Traité sur l'Antarctique ou par les commissions de pêche existantes responsables d'espèces qui peuvent pénétrer dans la zone d'application de la Convention, afin qu'il n'y ait pas d'incompatibilité entre les droits et les obligations d'une Partie contractante résultant de ces mesures ou réglementations et les mesures de conservation qu'elle adopte elle-même.

6. Les mesures de conservation adoptées par la Commission en vertu de la présente Convention sont appliquées par les membres de la Commission de la manière suivante:

a) La Commission notifie les mesures de conservation à tous les membres de la Commission;

b) Les mesures de conservation deviennent obligatoires pour tous les membres de la Commission 180 jours après cette notification, sans préjudice des dispositions des alinéas c) et d) ci-après;

c) Si, dans les 90 jours qui suivent la notification visée à l'alinéa a), un membre de la Commission informe celle-ci qu'il ne peut accepter, en totalité ou en partie, la mesure de conservation, cette mesure ne liera ce membre de la Commission que pour ce qu'il aura accepté.

d) Au cas où un membre de la Commission invoque la procédure énoncée à l'alinéa c), la Commission se réunit à la demande de tout membre de la Commission afin de revoir la mesure de conservation. Lors de cette réunion et dans les 30 jours qui la suivent, tout membre de la Commission a le droit de déclarer qu'il n'est plus en état d'accepter la mesure de conservation, auquel cas ledit membre ne sera plus lié par la mesure en question.

ARTICLE X

1. La Commission attire l'attention de tout Etat qui n'est pas Partie à la présente Convention sur toute activité de ses ressortissants ou navires qui, de son point de vue, va à l'encontre de la réalisation des objectifs de la présente Convention.

2. La Commission attire l'attention de toutes les Parties contractantes sur toute activité qui, de son point de vue, est contraire à la réalisation par l'une des Parties contractantes des objectifs de la présente Convention ou au respect par elle des obligations qui lui sont imposées par la présente Convention.

ARTICLE XI

La Commission s'efforce de coopérer avec les Parties contractantes qui exerceraient une juridiction dans les zones marines adjacentes à la zone d'application de la Convention, pour ce qui a trait à la conservation d'un ou de plusieurs stocks d'espèces associées situés aussi bien dans ces zones que dans la zone d'application de la Convention, en vue d'harmoniser les mesures de conservation adoptées à l'égard de ces stocks.

ARTICLE XII

1. Les décisions de la Commission sur les questions de fond sont prises par consensus. La décision de traiter une question comme étant une question de fond est elle-même traitée comme une question de fond.

2. Les décisions sur des questions autres que celles visées au paragraphe 1 sont prises à la majorité simple des membres de la Commission présents et votants.

3. Lorsque la Commission examine une question qui requiert une décision, il est précisé si une organisation d'intégration économique régionale participera à la prise de décision et, dans l'affirmative, si aucun de ses Etats membres y participera également. Dans ce cas, le nombre des Parties contractantes participant à la prise de décision ne doit pas dépasser le nombre des Etats membres de l'organisation d'intégration économique régionale qui sont membres de la Commission.

4. Lorsqu'une décision est prise aux termes du présent Article une organisation d'intégration économique régionale ne dispose que d'une voix.

ARTICLE XIII

1. Le siège de la Commission sera établi à Hobart, Tasmanie, Australie.

2. La Commission tient chaque année une session ordinaire. Elle peut également se réunir en session autre que la session annuelle à la demande d'un tiers de ses membres et dans les conditions prévues par ailleurs dans la présente Convention. La première réunion de la Commission se tiendra dans les 3 mois suivant l'entrée en vigueur de la présente Convention, à condition que parmi les Parties contractantes figurent au moins deux Etats qui se livrent à des activités de capture dans la zone d'application de la Convention. En tout état de cause, la première réunion aura lieu dans l'année suivant l'entrée en vigueur. Le Dépositaire consultera les Etats signataires au sujet de la première réunion de la Commission, en tenant compte de la nécessité d'une large représentation de ces Etats pour le bon fonctionnement de la Commission.

3. Le Dépositaire convoquera la première réunion de la Commission au siège de celle-ci. Ultérieurement, les réunions de la Commission se tiendront à son siège, à moins qu'elle n'en décide autrement.

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4. La Commission élira parmi ses membres un Président et un Vice-Président dont le mandat sera de deux ans, renouvelable une seule fois. Cependant, le mandat initial du premier Président sera d'ure durée de trois ans. Le Président et le Vice-Iresident ne pourront être les représentants d'une même Partie contractante.

5. La Commission adoptera et modifiera en tant que de besoin le règlement intérieur de ses réunions, sauf en ce qui concerne les questions qui font l'objet de l'Article XII de la présente Convention.

6. La Commission peut établir les organes subsidiaires qu'elle estime nécessaires à l'exercice de ses fonctions.

ARTICLE XIV

1. Il est institué par les Parties contractantes un Comité scientifique pour la conservation de la faune et de la flore marines de l'Antarctique, ci-après dénommé "Comité scientifique", organe consultatif placé auprès de la Commission. Il se réunit normalement au siège de la Commission, à moins qu'il n'en décide autrement.

2. Chaque membre de la Commission est membre du Comité scientifique et y nomme un représentant ayant les compétences scientifiques appropriées, qui peut être accompagné le cas échéant d'autres experts ou conseillers.

3. Le Comité scientifique peut, sur une base ad hoc, solliciter l'avis d'autres savants ou experts.

ARTICLE XV

1. Le Comité scientifique est un organe de consultation et de coopération pour la collecte, l'étude et l'échange d'informations sur les ressources marines vivantes auxquelles la présente Convention s'applique. Il encourage et favorise la coopération dans le domaine de la recherche scientifique afin d'étendre les connaissances sur les ressources marines vivantes de l'écosystème marin de l'Antarctique.

2. Le Comité scientifique mène les activitiés dont la Commission le charge conformément aux objectifs de la présente Convention:

   a) il définit les critères et les méthodes applicables pour l'élaboration des mesures de conservation visées à l'Article IX;

b) il procède à des évaluations régulières de l'état et des tendances des populations de ressources marines vivantes de l'Antarctique;

c) il analyse les données relatives aux effets directs et indirects de la capture sur les populations de ressources marines vivantes de l'Antarctique;

d) il évalue les incidences des modifications proposées en matière de méthodes ou de niveaux de capture et des mesures de conservation projetées;

e) il transmet à la Commission, sur demande ou de sa propre initiative, des estimations, analyses, rapports et recommandations concernant les mesures et les recherches nécessaires à la réalisation des objectifs de la présente Convention;

f) il formule des propositions pour la mise en oeuvre des programmes de recherche nationaux ou internationaux sur les ressources marines vivantes de l'Antarctique.

3. Dans l'exercice de ses fonctions, le Comité scientifique tient compte des travaux des autres organisations scientifiques et techniques compétentes et des activités scientifiques menées dans le cadre du Traité sur l'Antarctique.

ARTICLE XVI

1. Le Comité scientifique tient sa première réunion dans les trois mois qui suivent la première réunion de la Commission. Par la suite, le Comité scientifique se réunit aussi souvent que l'exercice de ses fonctions l'exige.

2. Le Comité scientifique adopte et amende, le cas échéant, son règlement intérieur. Ce règlement intérieur, ainsi que tout amendement subséquent, est approuvé par la Commission. Il doit prévoir la présentation de rapports rédigés par une minorité de membres.

3. Le Comité scientifique, avec l'accord de la Commission, peut créer les organes subsidiaires nécessaires à l'accomplissement de ses fonctions.

ARTICLE XVII

1. La Commission nomme un Secrétaire exécutif pour assurer son fonctionnement et celui du Comité scientifique, selon les procédures et dans les conditions qu'elle définit. Son mandat est de quatre ans et peut être renouvelé.

2. La Commission approuve, en tant que de besoin, l'organigramme du personnel du Secrétariat et le Secrétaire exécutif nomme, dirige et supervise ce personnel selon les règles et procédures et dans les conditions définies par la Commission.

3. Le Secrétaire exécutif et le Secrétariat exercent les fonctions qui leur sont confiées par la Commission.

ARTICLE XVIII

Les langues officielles de la Commission et du Comité scientifique sont l'anglais, l'espagnol, le français et le russe.

ARTICLE XIX

1. Lors de chaque réunion annuelle, la Commission adopte à l'unanimité son budget et celui du Comité scientifique.

2. Le Projet de budget de la Commission, du Comité scientifique et de tout organe subsidiaire est établi par le Secrétaire exécutif et soumis aux membres de la Commission au moins soixante jours avant la réunion annuelle de la Commission.

3. Chaque membre de la Commission contribue au budget. Jusqu'à expiration d'un délai de cinq ans après l'entrée en vigueur de la présente Convention, les contributions de chaque membre de la Commission sont égales.

Ensuite, le montant des contributions est déterminé selon les deux critères suivants: l'importance des captures et une participation égale de tous les membres de la Commission. La Commission fixe à l'unanimité la proportion dans laquelle ces deux critères sont appliqués.

4. Les opérations financières de la Commission et du Comité scientifique sont menées conformément au règlement financier adopté par la Commission et font l'objet d'une vérification annuelle de la part de commissaires aux comptes choisis à l'extérieur par la Commission.

5. Chaque membre de la Commission subvient lui-même aux dépenses qu'il encourt du fait de sa participation aux réunions de la Commission et du Comité scientifique.

6. Un membre de la Commission qui, pendant deux années consécutives, manque au versement de ses contributions, n'aura pas le droit, jusqu'à paiement de ses arriérés, de participer à la prise de décision à la Commission.

ARTICLE XX

1. Dans toute la mesure du possible, les membres de la Commission communiquent annuellement à la Commission et au Comité scientifique les données statistiques, biologiques et autres et les renseignements dont la Commission et le Comité scientifique pourraient avoir besoin dans l'exercice de leurs fonctions.

2. Les membres de la Commission communiquent, de la manière et aux intervalles prescrits, des informations sur leurs activités de capture, y compris sur les zones de pêche et les navires, de sorte que des statistiques fiables concernant les prises et les moyens mis en oeuvre puissent être rassemblées.

3. Les membres de la Commission communiquent à cette dernière, aux intervalles prescrits par elle, des renseignements sur les dispositions prises pour mettre en oeuvre les mesures de conservation adoptées par la Commission.

4. Les membres de la Commission conviennent de profiter de leurs opérations de capture pour rassembler les données nécessaires à l'évaluation des effets des prises.

ARTICLE XXI

1. Chaque Partie contractante prend, dans les limites de sa compétence, les mesures appropriées pour assurer le respect des dispositions de la présente Convention et des mesures de conservation adoptées par la Commission qu'elle est tenue d'appliquer aux termes de l'Article IX.

2. Chaque Partie contractante communique à la Commission des renseignements sur les mesures prises en application du paragraphe 1, y compris sur les sanctions appliquées en cas d'infraction.

ARTICLE XXII

1. Chaque Partie contractante s'engage à déployer les efforts appropriés, dans le respect de la charte des Nations Unies, afin d'empêcher quiconque de mener des activités qui aillent à l'encontre des objectifs de la présente Convention.

2. Chaque Partie contractante informe la Commission des activités contraires à la Convention dont elle a connaissance.

ARTICLE XXIII

1. La Commission et le Comité scientifique coopèrent avec les Parties consultatives au Traité sur l'Antarctique pour les questions qui sont de la compétence de ces dernières.

2. La Commission et le Comité scientifique coopèrent, le cas échéant, avec l'Organisation des Nations Unies pour l'alimentation et l'agriculture et les autres institutions spécialisées.

3. La Commission et le Comité scientifique s'efforcent d'établir, le cas échéant, des relations de coopération avec les organisations intergouvernementales et non gouvernementales qui pourraient contribuer à leurs travaux, notamment avec le Comité scientifique sur la recherche antarctique, le Comité scientifique pour les recherches océaniques et la Commission internationale de la chasse à la baleine.

4. La Commission peut conclure des accords avec les organisations visées au présent Article et, au besoin, avec d'autres organisations. La Commission et le Comité scientifique peuvent inviter ces organisations à envoyer des observateurs à leurs réunions ou à celles de leurs organes subsidiaires.

ARTICLE XXIV

1. Les Parties contractantes conviennent de créer un système d'observation et de contrôle pour promouvoir les objectifs de la présente Convention et en faire respecter les dispositions.

2. La Commission organise le système d'observation et de contrôle sur la base des principes suivants:

a) Les Parties contractantes collaborent entre elles pour assurer une mise en oeuvre efficace du système d'observation et de contrôle, compte tenu des pratiques internationales existantes. Ce système comporte notamment des procédures relatives à la visite à bord et à l'inspection par des observateurs et inspecteurs désignés par les membres de la Commission et des procédures relatives aux poursuites engagées et aux sanctions appliquées par l'Etat du pavillon sur la base des preuves recueillies au cours de ces visites à bord et de ces inspections. Un rapport sur ces poursuites et sur les sanctions imposées doit être inclus dans les renseignements visés à l'Article XXI;

b) Pour vérifier si les mesures adoptées aux termes de la présente Convention sont dûment respectées, l'observation et le contrôle sont effectués à bord des navires qui se livrent à des opérations de recherche scientifique ou de capture de ressources marines vivantes dans la zone d'application de la Convention, par des observateurs et des inspecteurs désignés par les membres de la Commission et opérant dans des conditions à définir par la Commission.

c) Les observateurs et les inspecteurs désignés restent soumis à la juridiction de la Partie contractante dont ils sont les ressortissants. Ils font rapport au membre de la Commission qui les a désignés et qui, à son tour, fait rapport à la Commission.

3. En attendant la mise en place du système d'observation et de contrôle, les membres de la Commission s'efforceront de prendre des dispositions provisoires pour désigner des observateurs et des inspecteurs et ceux-ci seront habilités à effectuer des contrôles dans les conditions stipulées au paragraphe 2 du présent Article.

ARTICLE XXV

1. En cas de différend entre deux ou plusieurs Parties contractantes sur l'interprétation ou l'application de la présente Convention, ces Parties contractantes se consulteront en vue de régler le différend par voie de négociation, d'enquête, de médiation, de conciliation, d'arbitrage, de règlement judiciaire ou par tout autre moyen pacifique de leur choix.

2. Tout différend de cette nature qui n'aura pu ainsi être réglé sera, avec dans chaque cas l'assentiment de toutes les Parties en cause, porté devant la Court internationale de Justice ou soumis à l'arbitrage; cependant, l'impossibilité de parvenir à un accord sur le choix de l'une ou l'autre de ces voies de recours ne dispensera pas les parties en cause de l'obligation de continuer à rechercher une solution à leur differend par l'un quelquonque des modes de règlement pacifique mentionnés au paragraphe 1 du présent Article.

3. Lorsque le différend est soumis à l'arbitrage, le tribunal arbitral sera constitué conformément aux dispositions de l'Annexe à la présente Convention.

ARTICLE XXVI

1. La présente Convention est ouverte à la signature à Canberra du 1er août au 31 décembre 1980 par les Etats participant à la Conférence sur la conservation des ressources marines vivantes de l'Antarctique qui s'est déroulée à Canberra du 7 au 20 mai 1980.

2. Les Etats ayant ainsi signé la Convention sont les Etats signataires originels de la Convention.

ARTICLE XXVII

1. La présente Convention est soumise à la ratification, à l'acceptation ou à l'approbation des Etats signataires.

2. Les instruments de ratification, d'acceptation ou d'approbation seront déposés auprès du Gouvernement de l'Australie, désigné comme Dépositaire.

ARTICLE XXVIII

1. La présente Convention entrera en vigueur le trentième jour suivant la date du dépôt du huitième instrument de ratification, d'acceptation ou d'approbation par les Etats visés à l'Article XXVI, paragraphe 1.

2. Pour chaque Etat ou chaque organisation d'intégration économique régionale qui, après la date d'entrée en vigueur de la présente Convention, dépose un instrument de ratification, d'acceptation, d'approbation ou d'adhésion, la Convention entrera en vigueur le trentième jour suivant ce dépôt.

ARTICLE XXIX

1. La présente Convention est ouverte à l'adhésion de tout Etat s'intéressant aux activités de recherche ou de capture en matière de ressources marines vivantes auxquelles s'applique la présente Convention.

2. La présente Convention est ouverte à l'adhésion d'organisations d'intégration économique régionale constituées par des Etats souverains dont un ou plusieurs sont des Etats membres de la Commission et auxquelles les Etats membres de l'organisation ont transféré des compétences totales ou partielles dans les domaines auxquels s'applique la présente Convention. L'adhésion de ces organisations d'intégration economique régionale fait l'objet de consultations entre les membres de la Commission.

ARTICLE XXX

1. La présente Convention peut être amendée à tout moment.

2. A la demande d'un tiers des membres de la Commission, le Dépositaire convoque une réunion en vue d'examiner une proposition d'amendement.

3. Un amendement entre en vigueur lorsque le Dépositaire a reçu de tous les membres de la Commission les instruments de ratification, d'acceptation ou d'approbation de cet amendement.

4. Cet amendement entre alors en vigueur à l'égard de toute autre Partie contractante dont la notification de ratification, d'acceptation ou d'approbation est parvenue au Dépositaire. Toute Partie contractante qui n'aura pas fait parvenir sa notification de ratification dans le délai d'un an à compter de la date d'entrée en vigueur de l'amendement conformément au paragraphe 3 du présent Article sera réputée s'être retirée de la Convention.

ARTICLE XXXI

1. Toute Partie contractante peut se retirer de la présente Convention le 30 juin de chaque année, en le notifiant par écrit, au plus tard le 1er janvier de la même année, au Dépositaire qui, à réception de cette notification, la communique immédiatement aux autres Parties contractantes.

2. Toute autre Partie contractante peut, dans les soixante jours suivant la réception d'une copie de cette notification communiquée par le Dépositaire, notifier par écrit son retrait au Dépositaire, auquel cas la Convention cessera de s'appliquer, pour cette Partie contractante, le 30 juin de la même année.

3. Le retrait de la Convention d'un membre de la Commission n'affecte pas les obligations financières contractées par lui aux termes de la présente Convention.

ARTICLE XXXII

Le Dépositaire notifie à toutes les Parties contractantes:

a) les signatures de la présente Convention et le dépôt des instruments de ratification, d'acceptation, d'approbation ou d'adhésion;

b) la date d'entrée en vigueur de la présente Convention et de tout amendement à celle-ci.

ARTICLE XXXIII

1. La présente Convention, dont les textes anglais, espagnol, français et russe font également foi, sera déposée auprès du Gouvernement de l'Australie, qui en transmettra copie certifiée conforme à toutes les Parties signataires et adhérentes.

2. La présente Convention sera enregistrée par le Dépositaire conformément aux dispositions de l'Article 102 de la Charte des Nations Unies.

EN FOI DE QUOI, les soussignés, dûment autorisés, ont apposé leur signature à la présente Convention.

Fait à Canberra, ce vingtième jour de mai mil neuf cent quatre-vingt.

ANNEXE: TRIBUNAL ARBITRAL

1. Le tribunal arbitral visé au paragraphe 3 de l'Article XXV est composé de trois arbitres désignés de la manière suivante:

   a) la Partie entamant la procédure communique le nom d'un arbitre à l'autre Partie. Celle-ci, dans les 40 jours qui suivent cette communication, fait à son tour connaître le nom du deuxième arbitre. Dans les 60 jours qui suivent la désignation de ce dernier, les Parties doivent nommer d'un commun accord le troisième arbitre. Celui-ci ne doit être ni un ressortissant de l'une des Parties en cause, ni de la même nationalité que l'un ou l'autre des deux premiers arbitres. Il préside le tribunal.

   b) si le deuxième arbitre n'a pas été désigné dans le délai prescrit, ou si les Parties ne se sont pas entendues dans le délai prescrit sur la designation du troisième arbitre, ce dernier est désigné, à la demande de l'une des Parties, par le Secrétaire Général de la Cour Permanente d'Arbitrage parmi les personnalités de réputation internationale n'ayant pas la nationalité d'un Etat partie à la présente Convention.

2. Le tribunal arbitral décide du lieu où il tient audience et fixe sa procédure.

3. Les sentences arbitrales sont rendues à la majorité des membres du tribunal, qui ne peuvent s'abstenir de voter.

4. Toute Partie contractante qui n'est partie au différend peut intervenir dans la procédure, avec l'accord du tribunal arbitral.

5. La sentence est sans appel. Elle a force obligatoire pour toutes les Parties en cause et pour toute Partie intervenante. Elle est immédiatement exécutoire. Le tribunal interprète la sentence à la demande de l'une des parties au différend ou de toute Partie intervenante.

6. A moins que le tribunal n'en dispose autrement compte tenu de circonstances particulières, les frais de justice, y compris les vacations des arbitres, sont répartis également entre les Parties en cause.

КОНВЕНЦИЯ О СОХРАНЕНИИ МОРСКИХ ЖИВЫХ РЕСУРСОВ АНТАРКТИКИ

Договаривающиеся Стороны,

ПРИЗНАВАЯ важность охраны окружающей среды и защиты целостности экосистемы морей, омывающих Антарктиду;

ПРИНИМАЯ ВО ВНИМАНИЕ концентрацию морских живых ресурсов в водах Антарктики и возросший интерес к возможностям использования этих ресурсов в качестве источника протеина;

СОЗНАВАЯ настоятельную необходимость обеспечения сохранения морских живых ресурсов Антарктики;

СЧИТАЯ необходимым расширение знаний о морской экосистеме Антарктики и ее компонентах с тем, чтобы иметь возможность принимать решения относительно промысла на основе правильной научной информации;

СЧИТАЯ, что сохранение морских живых ресурсов Антарктики требует международного сотрудничества с должным учетом положений Договора об Антарктике и при активном участии всех государств, ведущих исследования или промысел в антарктических водах;

ПРИЗНАВАЯ основную ответственность государств-участников Консультативных Совещаний по Договору об Антарктике в том, что касается охраны и защиты антарктической окружающей среды и, в частности, их ответственность в силу пунтка 1(f) Статьи IX Договора об Антарктике в отношении охраны и сохранения живых ресурсов в Антарктике;

НАПОМИНАЯ о шагах, уже предпринятых государствами-участниками Консультативных Совещаний по Договору об Антарктике, включая, в частности, Согласованные меры по охране фауны и флоры Антарктики, а также положения Конвенции о сохранении тюленей Антарктики;

ИМЕЯ В ВИДУ озабоченность сохранением морских живых ресурсов Антарктики, выраженную государствами-участниками Девятого Консультативного Совещания по Договору об Антарктике, и важное значение Рекомендации IX(2), приведшей к принятию настоящей Конвенции;

СЧИТАЯ, что интересам всего человечества отвечает сохранение вод, окружающих антарктический континент, для использования исключительно в мирных целях и предотвращение превращения их в арену или предмет международных разногласий;

ПРИЗНАВАЯ, в свете вышесказанного, что желательно создать надлежащий механизм для вынесения рекомендаций, содействия разработке, принятия решений и осуществления координации в том, что касается мер и научных исследований, необходимых для обеспечения сохранения морских живых организмов Антарктики;

СОГЛАСИЛИСЬ о нижеследующем:

СТАТЬЯ I

1. Настоящая Конвенция применяется к антарктическим морским живым ресурсам района к югу от 60° южной широты и к антарктическим морским живым ресурсам района, находящегося между этой широтой и Антарктической конвергенцией, которые являются частью морской экосистемы Антарктики.

2. Морские живые ресурсы означают популяции плавниковых рыб, моллюсков, ракообразных и всех других видов живых организмов, включая птиц, обитающих к югу от антарктической конвергенции.

3. Морская экосистема Антарктики означает комплекс взаимоотношений морских живых ресурсов Антарктики друг с другом и с окружающей их физической средой.

4. Антарктической конвергенцией считается линия, соединяющая следующие точки вдоль параллелей широты и меридианов долготы:

50° ю.ш., 0°; 50° ю.ш., 30° в.д., 45° ю.ш., 30° в.д.; 45° ю.ш., 80° в.д.; 55° ю.ш., 80° в.д.; 55° ю.ш., 150° в.д.; 60° ю.ш., 150° в.д.; 60° ю.ш., 50° з.д.; 50° ю.ш., 50° з.д.; 50° ю.ш., 0°.

СТАТЬЯ II

1. Целью настоящей Конвенции является сохранение морских живых ресурсов Антарктики.

2. Для целей настоящей Конвенции термин "сохранение" включает рациональное использование.

3. Любой промысел и связанная с ним деятельность в районе применения настоящей Конвенции проводятся в соответствии с положениями настоящей Конвенции и следующими принципами сохранения:

(a) предотвращение сокращения численности любой вылавливаемой популяции до уровней, ниже таких, которые обеспечивают ее устойчивое пополнение. С этой целью не должно допускаться ее сокращение ниже уровня, близкого к тому, который обеспечивает наибольший чистый годовой прирост;

(b) поддерживание экологических взаимосвязей между вылавливаемыми, зависящими от них и связанными с ними популяциями морских живых ресурсов Антарктики и восстановление истощенных популяций до уровней, определенных в подпункте (a) выше;

(c) предотвращение изменений или сведение до минимума опасности изменений в морской экосистеме, которые являются потенциально необратимыми на протяжении двух или трех десятилетий, принимая во внимание состояние имеющихся знаний о прямом и косвенном воздействии промысла, влиянии внесения не свойственных данному району видов, последствиях связанной с этим деятельности для морской экосистемы и последствиях изменений в окружающей среде с тем, чтобы было возможно устойчивое сохранение морских живых ресурсов Антарктики.

СТАТЬЯ III

Договаривающиеся Стороны, независимо от того, являются они участниками Договора об Антарктике или нет, соглашаются, что в районе действия Договора об Антарктике они не будут осуществлять никакой деятельности, противоречащей принципам и целям этого Договора, и что в своих отношениях друг с другом они связаны обязательствами, содержащимися в Статьях I и V Договора об Антарктике.

СТАТЬЯ IV

1. В том, что касается района действия Договора об Антарктике, все Договаривающиеся Стороны, независимо от того, являются они участниками Договора об Антарктике или нет, в своих отношениях друг с другом связаны положениями Статей IV и VI Договора об Антарктике.

2. Ничто, содержащееся в настоящей Конвенции, и никакие действия или виды деятельности, имеющие место, пока настоящая Конвенция находится в силе:

(a) не образуют основы для заявления, поддержания или отрицания какой-либо претензии на территориальный суверенитет в районе действия Договора об Антарктике и не создают никаких прав суверенитета в районе действия Договора об Антарктике;

(b) не должны толковаться как отказ любой из Договаривающихся Сторон от какого-либо права или претензии, или основы для претензии, либо как их сокращение или как наносящее им ущерб в том, что касается осуществления юрисдикции прибрежного государства согласно международному праву в пределах района применения настоящей Конвенции;

(c) не должны толковаться как наносящие ущерб позиции любой из Договаривающихся Сторон в отношении признания или непризнания ею любого такого права, претензии или основы для претензии;

(d) не затрагивают положения пункта 2 Статьи IV Договора об Антарктике о том, что никакая новая претензия или расширение существующей претензии на территориальный суверенитет в Антарктике не заявляются, пока Договор об Антарктике находится в силе.

СТАТЬЯ V

1. Договаривающиеся Стороны, не являющиеся участниками Договора об Антарктике, признают особые обязательства и ответственность государств-участников Консультативных Совещаний по Договору об Антарктике, в том, что касается охраны и сохранения окружающей среды в сфере действия Договора об Антарктике.

2. Договаривающиеся Стороны, не являющиеся участниками Договора об Антарктике, соглашаются, что при осуществлении деятельности в районе действия Договора об Антарктике они будут соблюдать в соответствующих случаях Согласованные меры по охране фауны и флоры Антарктики и такие другие меры, какие были рекомендованы государствами-участниками Консультативных Совещаний по Договору об Антарктике в порядке осуществления ими своей ответственности за охрану окружающей среды Антарктики от всех видов пагубного вмешательства человека.

3. Для целей настоящей Конвенции "государства-участники Консультативных совещаний по Договору об Антарктике" означают Договаривающиеся Стороны по Договору об Антарктике, представители которых участвуют в совещаниях, предусмотренных Статьей IX Договора об Антарктике.

СТАТЬЯ VI

Ничто содержащееся в настоящей Конвенции не умаляет прав и обязательств Договаривающихся Сторон по Международной Конвенции о регулировании китобойного промысла и Конвенции о сохранении тюленей Антарткики.

СТАТЬЯ VII

1. Договаривающиеся Стороны настоящим учреждают и соглашаются содержать Комиссию по сохранению морских живых ресурсов Антарктики, в дальнейшем именуемую "Комиссией".

2. Членский состав Комиссии является следующим:

(a) каждая Договаривающаяся Сторона, участвовавшая в совещании, на котором была принята настоящая Конвенция, является членом Комиссии;

(b) каждое государство-участник, присоединившееся к настоящей Конвенции согласно Статье XXIX, имеет право быть членом Комиссии в течение того времени, пока эта присоединившаяся сторона ведет исследования или промысел морских живых ресурсов, к которым применяется настоящая Конвенция;

(c) каждая организация региональной экономической интеграции, присоединившаяся к настоящей Конвенции согласно Статье XXIX, имеет право быть членом Комиссии в течение того времени, пока государства-члены этой организации имеют право на это;

(d) Договаривающаяся Сторона, желающая участвовать в работе Комиссии в соответствии с подпунктами (b) и (c) выше, уведомляет депозитария о том, на какой основе она желает стать членом Комиссии, и о своей готовности принять действующие меры по сохранению. Депозитарий сообщает каждому члену Комиссии о таком уведомлении и сопровождающей его информации. В течение двух месяцев после получения от депозитария такого сообщения любой член Комиссии может обратиться с просьбой о проведении специальной сессии Комиссии для

рассмотрения этого вопроса. По получении такой просьбы депозитарий созывает такую сессию. При отсутствии просьбы о проведении сессии Договаривающаяся Сторона, направившая уведомление, считается отвечающей требованиям членства в Комиссии.

3. Каждый Член Комиссии будет представлен в ней одним представителем, которого могут сопровождать заместители представителя и советники.

СТАТЬЯ VIII

Комиссия является юридическим лицом и пользуется на территории каждого Договаривающегося Государства такой право- и дееспособностью, которые могут быть необходимы, чтобы позволить ей выполнять свои функции и достичь целей Конвенции. Привилегии и иммунитеты, которыми пользуется Комиссия и ее сотрудники на территории какого-либо Договаривающегося Государства, определяются соглашением между Комиссией и заинтересованным Договаривающимся Государством.

СТАТЬЯ IX

1. Функцией Комиссии является осуществление цели и принципов, изложенных в Статье II настоящей Конвенции. С этой целью она:

(a) способствует проведению исследований и всестороннего изучения морских живых ресурсов Антарктики и антарктической морской экосистемы;

(b) собирает данные о состоянии популяций морских живых ресурсов Антарктики, изменениях в них и о факторах, влияющих на распределение, численность и продуктивность вылавливаемых видов и зависящих от них или связанных с ними видов или популяций;

(c) обеспечивает сбор статистических данных об уловах и промысловых усилиях, в том, что касается вылавливаемых популяций;

(d) анализирует, распространяет и публикует информацию, упомянутую в подпунктах (b) и (c) выше, и доклады Научного комитета;

(e) устанавливает потребность в сохранении и анализирует эффективность мер по сохранению;

(f) с учетом положений пункта 5 настоящей Статьи разрабатывает, принимает и пересматривает меры по сохранению на основе наилучшей имеющейся научной информации;

(g) применяет систему наблюдения и инспекции, созданную в соответствии со Статьей XXIV настоящей Конвенции;

(h) проводит такую другую деятельность, какая необходима для достижения цели настоящей Конвенции.

2. Упомянутые в пункте 1(f) выше меры по сохранению включают следующие:

(a) определение количества любого вида, которое может вылавливаться в районе применения настоящей Конвенции;

(b) определение районов и подрайонов на основе распределения популяций морских живых ресурсов Антарктики;

(c) определение количества, которое может вылавливаться из популяций районов и подрайонов;

(d) определение охраняемых видов;

(e) определение размера, возраста и, в соответствующих случаях, пола видов, которые могут вылавливаться;

(f) определение сезонов, открытых и закрытых для промысла;

(g) определение открытых и закрытых зон, районов или подрайонов для целей научного изучения или сохранения, включая особые зоны охраны и научного изучения;

(h) регулирование промысловых усилий и методов лова, в том числе орудий лова, с целью, в частности, избежания излишнего сосредоточения промысла в каком-либо районе или подрайоне;

(i) принятие таких других мер по сохранению, какие Комиссия считает необходимыми для осуществления цели настоящей Конвенции, включая меры, касающиеся последствий промысла и связанной с ним деятельности для компонентов морской экосистемы, иных чем вылавливаемые популяции.

3. Комиссия публикует все действующие меры по сохранению и ведет их учет.

4. При выполнении своих функций, указанных в пункте 1 выше, Комиссия полностью учитывает рекомендации и мнение Научного комитета.

5. Комиссия полностью учитывает любые соответствующие меры или правила, принятые или рекомендованные Консультативными Совещаниями согласно Статье IX Договора об Антарктике, либо принятые или рекомендованные существующими комиссиями по рыболовству, ответственными за виды, которые могут оказаться в районе применения настоящей Конвенции, во избежание несоответствия между правами и обязательствами Договаривающейся стороны, вытекающими из таких правил или мер, и мерами по сохранению, которые могут быть приняты Комиссией.

6. Меры по сохранению, принятые Комиссией в соответствии с настоящей Конвенцией, выполняются Членами Комиссии следующим образом:

(a) Комиссия уведомляет о мерах по сохранению всех членов Комиссии;

(b) меры по сохранению становятся обязательными для всех членов Комиссии по истечении 180 дней после такого уведомления, за исключением случаев, предусмотренных в подпунктах (c) и (d) ниже;

(c) если в течение девяноста дней после уведомления, указанного в подпункте (a), член Комиссии уведомит Комиссию о том, что он не может принять, полностью или частично, данную меру по сохранению, такая мера не становится в указанной степени обязательной для этого члена Комиссии;

(d) в случае, если какой-либо член Комиссии прибегнет к процедуре, изложенной в подпункте (c) выше, Комиссия по просьбе любого из членов Комиссии проведет сессию с целью рассмотрения такой меры по сохранению. Во время такой сессии и в течение тридцати дней после нее, любой член Комиссии имеет право заявить, что он более не может принятьэту меру по сохранению, и в таком случае эта мера более не является обязательной для этого члена Комиссии.

СТАТЬЯ X

1. Комиссия обращает внимание любого государства, не являющегося участником настоящей Конвенции, на любую деятельность, осуществляемую его гражданами или судами, которая, по мнению Комиссии, отрицательно влияет на достижение цели настоящей Конвенции.

2. Комиссия обращает внимание всех Договаривающихся Сторон на любую деятельность, которая, по мнению Комиссии, влияет на достижение какой-либо Договаривающейся Стороной цели настоящей Конвенции или выполнение такой Договаривающейся Стороной ее обязательств по настоящей Конвенции.

СТАТЬЯ XI

Комиссия будет стремиться сотрудничать с Договаривающимися Сторонами, которые могут осуществлять юрисдикцию в морских районах, прилегающих к району применения настоящей Конвенции, в отношении сохранения любого запаса или запасов ассоциированных видов, встречающихся как в пределах этих районов, так и в районе применения настоящей Конвенции, с целью согласования мер по сохранению, принимаемых в отношении таких запасов.

СТАТЬЯ XII

1. Решения Комиссии по вопросам существа принимаются на основе консенсуса. Вопрос о том, является ли данный вопрос вопросом существа, рассматривается как вопрос существа.

2. Решения по вопросам, помимо упомянутых в пункте 1 выше, принимаются простым большинством голосов членов Комиссии, присутствующих и участвующих в голосовании.

3. При рассмотрении Комиссией любого вопроса, требующего принятия решения, должно быть ясно указано, будет ли организация региональной экономической интеграции участвовать в принятии этого решения и, если она будет участвовать, будут ли также участвовать какие-либо из государств-членов этой организации. Число Договаривающихся Сторон, принимающих таким образом участие в принятии решения не должно превышать числа государств-членов организации региональной экономической интеграции, являющихся членами Комиссии.

4. При принятии решений в соответствии с настоящей статьей организация региональной экономической интеграции имеет только один голос.

СТАТЬЯ XIII

1. Местопребывание Комиссии устанавливается в Хобарте, Тасмания, Австралия.

2. Комиссия проводит ежегодно регулярные сессии. Другие сессии могут также проводиться по просьбе одной трети ее членов, если другое не предусматривается Конвенцией. Первая сессия Комиссии состоится в течение трех месяцев после вступления Конвенции в силу, при условии, что среди Договаривающихся Сторон будут по крайней мере два государства, ведущих промысел в районе, к которому применяется настоящая Конвенция. В любом случае, первая сессия состоится в течение года с момента вступления Конвенции в силу. Депозитарий будет консультироваться с государствами, подписавшими Конвенцию, в отношении первой сессии Комиссии, принимая во внимание, что широкое представительство таких государств необходимо для эффективной работы Комиссии.

3. Депозитарий созывает первую сессию Комиссии в месте пребывания Комиссии. В дальнейшем сессии Комиссии проводятся, если Комиссия не примет решения об ином, в месте ее пребывания.

4. Комиссия избирает из числа своих членов Председателя и Заместителя председателя, каждый из которых избирается на два года и может быть переизбран на один дополнительный срок. Первый Пердседатель может, однако, быть избран на первоначальный срок в три года. Председатель и Заместитель председателя не должны быть представителями одной и той же Договаривающейся Стороны.

5. Комиссия принимает правила процедуры ведения своих заседаний, за исключением вопросов, изложенных в Статье XII настоящей Конвенции и, в случае необходимости, вносит в них поправки.

6. Комиссия может создавать такие вспомогательные органы, которые будут необходимы для выполнения ее функций.

СТАТЬЯ XIV

1. Договаривающиеся Стороны настоящим учреждают Научный комитет по сохранению морских живых ресурсов Антарктики (в дальнейшем именуемый "Научным комитетом"), который является консультативным органом Комиссии. Научный комитет, как правило, проводит свои заседания в месте пребывания Комиссии, если он не примет решения об ином.

2. Каждый Член Комиссии является членом Научного комитета и назначает одного представителя, имеющего надлежащую научную квалификацию, которого могут сопровождать эксперты и советники.

3. Научный комитет может привлекать для консультаций, когда это будет необходимо, других ученых и экспертов на ad hoc основе.

СТАТЬЯ XV

1. Научный комитет является центром для консультаций и сотрудничества в области сбора и изучения информации о морских живых ресурсах, к которым применяется настоящая Конвенция, и обмена такой информацией. Он поощряет сотрудничество в области научных исследований в целях расширения знаний о морских живых ресурсах морской экосистемы Антарктики и содействует такому сотрудничеству.

2. Научный комитет осуществляет такую деятельность, какую Комиссия может поручить ему для достижения цели настоящей Конвенции, и:

(a) устанавливает критерии и методы вынесения решений, касающихся мер по сохранению, упомянутых в Статье IX настоящей Конвенции;

(b) периодически оценивает состояние и тенденции популяций морских живых ресурсов Антарктики;

(c) анализирует данные о прямых и косвенных последствиях промысла для популяций морских живых ресурсов Антарктики;

(d) оценивает последствия предлагаемых изменений в методах или уровнях промысла и предлагаемых мер по сохранению;

(e) по запросу или по собственной инициативе направляет Комиссии оценки, анализы, доклады и рекомендации, касающиеся мер и исследований для достижения цели настоящей Конвенции;

(f) разрабатывает предложения о проведении международных и национальных программ исследований по морским живым ресурсам Антарктики.

3. При выполнении своих функций Научный комитет учитывает работу других соответствующих технических и научных организаций, а также научную деятельность, проводимую в рамках Договора об Антарктике.

СТАТЬЯ XVI

1. Первая сессия Научного комитета состоится не позднее, чем через три месяца после первой сессии Комиссии. В дальнейшем Научный комитет проводит свои сессии так часто, как это необходимо для выполнения своих функций.

2. Научный комитет принимает свои правила процедуры и, в случае необходимости, вносит в них поправки. Такие правила процедуры и любые поправки к ним утверждаются Комиссией. Правила процедуры будут включать процедуру представления докладов меньшинства.

3. Научный комитет может учреждать, с согласия Комиссии, такие вспомогательные органы, которые необходимы для выполнения его функций.

СТАТЬЯ XVII

1. Комиссия назначает Исполнительного секретаря, который обеспечивает обслуживание Комиссии и Научного комитета, в соответствии с такой процедурой и на таких условиях, какие Комиссия может установить. Исполнительный секретарь назначается на срок в четыре года и может быть назначен вновь.

2. Комиссия санкционирует такой штат персонала Секретариата, какой может быть необходим, а Исполнительный секретарь назначает персонал Секретариата, руководит им и осуществляет наблюдение за его работой в соответствии с такими правилами и процедурой, какие Комиссия может определить.

3. Исполнительный секретарь и Секретариат осуществляют функции, возложенные на них Комиссией.

СТАТЬЯ XVIII

Официальными языками Комиссии и Научного комитета будут английский, французский, русский и испанский языки.

СТАТЬЯ XIX

1. На каждой ежегодной сессии Комиссия утверждает на основе консенсуса свой бюджет и бюджет Научного комитета.

2. Исполнительный секретарь подготавливает проект бюджета Комиссии, Научного комитета и любых вспомогательных органов и представляет его членам Комиссии по крайней мере за шестьдесят дней до начала ежегодной сессии Комиссии.

3. Каждый член Комиссии вносит взнос в бюджет. До истечения пяти лет после вступления в силу настоящей Конвенции каждый член Комиссии вносит равный взнос.

Впоследствии взнос будет определяться в соответствии с двумя критериями: объем вылова и равное распределение взносов между всеми членами Комиссии. На основе консенсуса Комиссия будет определять пропорциональное применение этих двух критериев.

4. Финансовая деятельность Комиссии и Научного комитета осуществляется в соответствии с финансовыми правилами, утвержденными Комиссией, и подлежит ежегодной ревизии выбранными Комиссией внешними ревизорами.

5. Каждый член Комиссии оплачивает свои собственные расходы, связанные с его участием в сессиях Комиссии и Научного комитета.

6. Член Комиссии, не уплативший свой взнос в течение двух последовательных лет, будет лишен права участвовать в принятии решений Комиссией до тех пор, пока его задолженность не будет погашена.

СТАТЬЯ XX

1. Члены Комиссии в максимально возможной степени ежегодно предоставляют Комиссии и Научному комитету, такие статистические, биологические и другие данные и информацию, какие могут потребоваться Комиссии и Научному комитету для выполнения их функций.

2. Члены Комиссии сообщают таким путем и через такие промежутки времени, какие могут быть установлены, информацию о своей промысловой деятельности, включая сведения о районах промысла и судах, с тем, чтобы обеспечить возможность составления сводок достоверных статистических данных об уловах и промысловых усилиях.

3. Члены Комиссии предоставляют Комиссии через такие промежутки времени, какие могут быть установлены, информацию о предпринятых шагах для выполнения принятых Комиссией мер по сохранению ресурсов.

4. Члены Комиссии соглашаются, что при любом промысле, который они ведут, будут использоваться возможности для сбора данных, необходимых для оценки воздействия промысла.

СТАТЬЯ XXI

1. Каждая Договаривающаяся Сторона принимает соответствующие меры в пределах своей компетенции в целях обеспечения соблюдения положений настоящей Конвенции и выполнения принятых Комиссией мер по сохранению, которые являются обязательными для данной Стороны в соответствии со Статьей IX настоящей Конвенции.

2. Каждая Договаривающаяся Сторона направляет Комиссии информацию о мерах, принятых согласно пункту 1 выше, включая применение санкций в случае какого-либо нарушения.

СТАТЬЯ XXII

1. Каждая Договаривающаяся Сторона обязуется прилагать соответствующие усилия, совместимые с Уставом Организации Объединенных Наций, с тем, чтобы никто не проводил никакой деятельности, противоречащей цели настоящей Конвенции.

2. Каждая Договаривающаяся Сторона сообщает Комиссии о всех случаях, когда ей станет известно о такой деятельности.

СТАТЬЯ XXIII

1. Комиссия и Научный комитет сотрудничают с государствами-участниками Консультативных совещаний по Договору об Антарктике по вопросам, входящим в компетенцию последних.

2. Комиссия и Научный комитет сотрудничают, в соответствующих случаях, с Продовольственной и сельскохозяйственной организацией Объединенных Наций и другими специализированными учреждениями.

3. Комиссия и Научный комитет будут стремиться развивать, в соответствующих случаях, рабочие отношения сотрудничества с межправительственными и неправительственными организациями, которые могут содействовать их работе, включая Научный комитет по антарктическим исследованиям, Научный комитет по океаническим исследованиям и Международную китобойную комиссию.

4. Комиссия может, в соответствующих случаях, заключить соглашения с упомянутыми в настоящей статье организациями и другими организациями. Комиссия и Научный комитет могут приглашать такие организации направить наблюдателей на свои сессии и сессии их вспомогательных органов.

СТАТЬЯ XXIV

1. Для содействия достижению цели и обеспечения соблюдения положений настоящей Конвенции Договаривающиеся Стороны соглашаются создать систему наблюдения и инспекции.

2. Система наблюдения и инспекции разрабатывается Комиссией на основе следующих принципов:

(a) Договаривающиеся Стороны сотрудничают друг с другом в целях обеспечения эффективного применения системы наблюдения и инспекции с учетом существующей международной практики. Эта система включает, в частности, процедуру посещения судна наблюдателями и инспекторами, назначенными членами Комиссии, и проведения ими инспекции, а также процедуру судебного преследования государством флага и применения санкций на основании доказательств, полученных в результате такого посещения судна и инспекции. Сообщение о таких мерах судебного преследования и примененных санкциях включается в информацию, упомянутую в Статье XXI настоящей Конвенции.

(b) в целях проверки соблюдения мер, принятых согласно настоящей Конвенции, наблюдение и инспекция проводятся на борту судов, ведущих научные исследования или промысел морских живых ресурсов в районе, к которому применяется настоящая Конвенция, через посредство наблюдателей и инспекторов, назначенных членами Комиссии и действующих в соответствии с условиями, определяемыми Комиссией;

(c) назначенные наблюдатели и инспекторы продолжают оставаться под юрисдикцией Договаривающейся Стороны, гражданами которой они являются. Они докладывают члену Комиссии, которым они назначены, и который в свою очередь докладывает Комиссии.

3. Впредь до создания системы наблюдения и инспекции члены Комиссии будут стремиться разработать промежуточные соглашения в целях назначения наблюдателей и инспекторов, и такие назначенные наблюдатели и инспекторы будут иметь право проводить инспекцию в соответствии с принципами, изложенными в пункте 2 выше.

СТАТЬЯ XXV

1. В случае возникновения какого-либо спора между двумя или несколькими Договаривающимися Сторонами относительно толкования или применения настоящей Конвенции, такие Договаривающиеся Стороны консультируются между собой с целью разрешения спора путем переговоров, расследования, посредничества, примирения, арбитража, судебного разбирательства или другими мирными средствами по их собственному выбору.

2. Любой спор такого рода, который не будет разрешен указанным путем, передается, с согласия в каждом случае всех сторон, участвующих в споре, на разрешение в Международный Суд или на арбитраж; однако, если не будет достигнута договоренность о передаче спора в Международный Суд или на арбитраж, стороны, участвующие в споре, не освобождаются от обязанности продолжать поиски его разрешения любым из различных мирных средств, указанных в пункте 1 выше.

3. В тех случаях, когда спор передается на арбитраж, арбитражный трибунал создается в соответствии с положениями, изложенными в Приложении к настоящей Конвенции.

СТАТЬЯ XXVI

1. Настоящая Конвенция открыта для подписания в Канберре с 1 августа 1980 года по 31 декабря 1980 года государствами, принимавшими участие в Конференции по сохранению морских живых ресурсов Антарктики, состоявшейся в Канберре с 7 по 20 мая 1980 года.

2. Государства, подписавшие таким образом настоящую Конвенцию, являются первоначальными участниками Конвенции.

СТАТЬЯ XXVII

1. Настоящая Конвенция подлежит ратификации, одобрению или принятию подписавшими ее государствами.

2. Ратификационные грамоты и документы о принятии или одобрении сдаются на хранение Правительству Австралии, которое настоящим назначается Депозитарием.

СТАТЬЯ XXVIII

1. Настоящая Конвенция вступает в силу на тридцатый день после сдачи на хранение восьмой ратификационной грамоты, документа о принятии или одобрении государствами, упомянутыми в пункте 1 Статьи XXVI настоящей Конвенции.

2. Для каждого государства или организации региональной экономической интеграции, которые после вступления настоящей Конвенции в силу сдадут на хранение ратификационную грамоту или документ о принятии, одобрении или присоединении, Конвенция вступит в силу на тридцатый день после сдачи такого инструмента или документа.

СТАТЬЯ XXIX

1. Настоящая Конвенция открыта для присоединения любого государства, заинтересованного в исследовательской или промысловой деятельности, относящейся к морским живым ресурсам, к которым применяется настоящая Конвенция.

2. Настоящая Конвенция открыта для присоединения созданными суверенными государствами организациями региональной экономической интеграции, в состав которых входят одно или более государств-членов Комиссии и которым государства-члены организации передали, полностью или частично, компетенцию в отношении вопросов, охваченных настоящей Конвенцией. Присоедиинение таких региональных организаций экономической интеграции является предметом консультаций между членами Комиссии.

СТАТЬЯ XXX

1. Поправки в настоящую Конвенцию могут быть внесены в любое время.

2. Если одна треть членов Комиссии выскажется за проведение совещания для обсуждения предложенной поправки, то Депозитарий созовет такое совещание.

3. Поправка вступает в силу, когда Депозитарий получит от всех членов Комиссии грамоту о ее ратификации или документ о ее принятии или одобрении.

4. Впоследствии такая поправка вступает в силу для любой другой Договаривающейся Стороны по получении Депозитарием уведомления о ратификации, одобрении или принятии ею этой поправки. Любая такая Договаривающаяся Сторона, от которой такое уведомление не было получено в течение одного года со дня вступления в силу этой поправки в соответствии с пунктом 3 выше, считается вышедшей из настоящей Конвенции.

СТАТЬЯ XXXI

1. Любая Договаривающаяся Сторона может выйти из числа участников настоящей Конвенции 30 июня любого года, направив не позднее 1 января того же года письменное уведомление Депозитарию, который после получения такого уведомления немедленно сообщит об этом остальным Договаривающимся Сторонам.

2. Любая другая Договаривающаяся Сторона может в течение шестидесяти дней после получения копии такого письменного уведомления от Депозитария также уведомить Депозитария о своем выходе, и в таком случае для Договаривающейся Стороны, сделавшей такое уведомление, Конвенция перестает быть в силе 30 июня того же года.

3. Выход из Конвенции любого члена Комиссии не затрагивает его финансовых обязательств по Конвенции.

СТАТЬЯ XXXII

Депозитарий уведомляет все Договаривающиеся Стороны о следующем:

(a) о подписании настоящей Конвенции и сдаче на хранение ратификационных грамот, документов о принятии, одобрении или присоединении;

(b) о дате вступления в силу настоящей Конвенции и любых поправок к ней.

СТАТЬЯ XXXIII

1. Настоящая Конвенция, английский, французский, русский и испанский тексты которой имеют одинаковую силу будет сдана на хранение правительству Австралии, которое препроводит должным образом заверенные копии Конвенции всем Сторонам, подписавшим ее и присоединившимся к ней.

2. Настоящая Конвенция будет зарегистрирована Депозитарием в соответствии с положениями Статьи 102 Устава Организации Объединенных Наций.

Совершено в Канберре,

двадцатого мая 1980 года.

В УДОСТОВЕРЕНИЕ ЧЕГО нижеподписавшиеся, должным образом на то уполномоченные, подписали настоящую Конвенцию.

ПРИЛОЖЕНИЕ ОБ АРБИТРАЖНОМ ТРИБУНАЛЕ

1. Упомянутый в пункте 3 Статьи XXV арбитражный трибунал состоит из трех арбитров, назначаемых следующим образом:

a) Сторона, возбуждающая разбирательство, сообщает фамилию арбитра другой стороне, которая, в свою очередь, в течение 40 дней после получения такого сообщения, сообщает фамилию второго арбитра. В течение 60 дней после назначения второго арбитра стороны назначают третьего арбитра, который не должен быть гражданином ни одной из этих сторон и не должен иметь гражданство, которое имеет тот или другой из двух первых арбитров. Третий арбитр является председателем трибунала.

b) В том случае, если второй арбитр не будет назначен в установленный срок или если стороны не достигнут договоренности в установленный срок относительно назначения третьего арбитра, то этот арбитр, по просьбе любой из сторон, назначается Генеральным секретарем Постоянной палаты третейского суда из числа лиц, пользующихся международной репутацией и не являющихся гражданами государства, участвующего в настоящей Конвенции.

2. Арбитражный трибунал устанавливает свое местопребывание и принимает свои собственные правила процедуры.

3. Решение арбитражного трибунала принимается большинством голосов его членов, которые не могут воздерживаться при голосовании.

4. Любая Договаривающаяся Сторона, не являющаяся стороной в споре, может, с согласия арбитражного трибунала, принять участие в разбирательстве.

5. Решение арбитражного трибунала является окончательным и обязательным для всех сторон в споре и для любого государства, принявшего участие в разбирательстве, и подлежит незамедлительному выполнению. Арбитражный трибунал дает толкование решения по просьбе одной из сторон в споре или любого государства, принявшего участие в разбирательстве.

6. Если арбитражный трибунал не вынесет иного решения в связи в особыми обстоятельствами дела, то расходы трибунала, включая вознаграждение его членов, несут в равных долях стороны, участвующие в споре.

CONVENCION SOBRE LA CONSERVACION DE LOS RECURSOS VIVOS MARINOS ANTARTICOS

Las Partes Contratantes,

Reconociendo la importancia de salvaguardar el medio ambiente y de proteger la integridad del ecosistema de los mares que rodean la Antártida;

Observando la concentración de recursos vivos marinos en las aguas antárticas y el creciente interés en las posibilidades que ofrece la utilización de esos recursos como fuente de proteínas;

Conscientes de la urgencia de asegurar la conservación de los recursos vivos marinos antárticos;

Considerando que es esencial aumentar el conocimiento del ecosistema marino antártico y de sus componentes para poder basar las decisiones sobre recolección en una sólida información científica;

Persuadidas de que la conservación de los recursos vivos marinos antárticos exige la cooperación internacional, teniendo debidamente en cuenta las disposiciones del Tratado Antártico y con la participación activa de todos los Estados dedicados a actividades de investigación o recolección en aguas antárticas;

Reconociendo las responsabilidades fundamentales de las Partes Consultivas del Tratado Antártico en materia de protección y preservación del medio ambiente antártico y, en particular, sus responsabilidades en virtud del párrafo 1, f) del Artículo IX del Tratado Antártico con respecto a la protección y conservación de los recursos vivos de la Antártida;

Recordando la acción ya emprendida por las Partes Consultivas del Tratado Antártico, en especial las Medidas Acordadas para la Conservación de la Fauna y Flora Antárticas, así como las disposiciones de la Convención para la Conservación de Focas Antárticas;

Teniendo presente la preocupación por la conservación de los recursos vivos marinos antárticos expresada por las Partes Consultivas en la Novena Reunión Consultiva del Tratado Antártico y la importancia de las disposiciones de la Recomendación IX - 2 que dio lugar al establecimiento de la presente Convención;

Persuadidas de que interesa a toda la humanidad preservar la aguas que rodean al Continente Antártico para fines pacíficos exclusivamente y evitar que lleguen a ser escenario u objeto de discordia internacional;

Reconociendo, a la luz de lo que antecede, que es conveniente establecer un mecanismo apropiado para recomen-

dar, promover, decidir y coordinar las medidas y estudios científicos necesarios para asegurar la conservación de los organismos vivos marinos antárticos;

Han convenido lo siguiente:

ARTICULO I

1. La presente Convención se aplica a los recursos vivos marinos antárticos de la zona situada al sur de los 60º de latitud Sur y a los recursos vivos marinos antárticos de la zona comprendida entre dicha latitud y la Convergencia Antártica que forman parte del ecosistema marino antártico.

2. "Recursos vivos marinos antárticos" significa las poblaciones de peces con aletas, moluscos, crustáceos y todas las demás especies de organismos vivos, incluidas las aves, que se encuentran al sur de la Convergencia Antártica.

3. "Ecosistema marino antártico" significa el complejo de relaciones de los recursos vivos marinos antárticos entre sí y con su medio físico.

4. Se considerará que la Convergencia Antártica está constituida por una línea que une los siguientes puntos a lo largo de paralelos de latitud y meridianos de longitud:

50º S, 0º; 50º S, 30º E; 45º S, 30º E;

45º S, 80º E; 55º S, 80º E; 55º S, 150 E;

60º S, 150º E; 60º S, 50º W;

50º S, 50º W; 50º S, 0º.

ARTICULO II

1. El objetivo de la presente Convención es la conservación de los recursos vivos marinos antárticos.

2. Para los fines de la presente Convención, el término "conservación" incluye la utilización racional.

3. Toda recolección y actividades conexas en la zona de aplicación de la presente Convención deberá realizarse de acuerdo con las disposiciones de la presente Convención y con los siguientes principios de conservación:

a) Prevención de la disminución del tamaño de la población de cualquier especie recolectada a niveles inferiores a aquéllos que aseguren su restablecimiento a niveles estables. Con tal fin no deberá permitirse que disminuya a un tamaño inferior a un nivel aproximado al que asegure el mayor incremento anual neto;

b) Mantenimiento de las relaciones ecológicas entre poblaciones recolectadas, dependientes y afines de los recursos vivos marinos antárticos y reposición de poblaciones disminuidas por debajo de los niveles definidos en el apartado a); y

c) Prevención de cambios o minimización del riesgo de cambios en el ecosistema marino que no sean potencialmente reversibles en el lapso de dos o tres decenios teniendo en cuenta el estado de los conocimientos existentes acerca de las repercusiones directas e indirectas de la recolección, el efecto de la introducción de especies exóticas, los efectos de actividades conexas sobre el ecosistema marino y los efectos de los cambios ambientales, a fin de permitir la conservación sostenida de los recursos vivos marinos antárticos.

ARTICULO III

Las Partes Contratantes, sean o no Partes en el Tratado Antártico, acuerdan que no se dedicarán en la zona del Tratado Antártico a ninguna actividad contraria a los propósitos y principios del Tratado Antártico, y convienen en que, en sus relaciones entre sí, están vinculadas por las obligaciones contenidas en los Artículos I y V del Tratado Antártico.

ARTICULO IV

1. Con respecto a la zona del Tratado Antártico, todas las Partes Contratantes, sean o no Partes en el Tratado Antártico, están obligadas en sus relaciones entre sí por los Artículos IV y VI del Tratado Antártico.

2. Nada de lo contenido en la presente Convención y ningún acto o actividad que tenga lugar mientras la presente Convención esté en vigor:

a) Constituirá fundamento para hacer valer, apoyar o negar una reclamación de soberanía territorial en la zona del Tratado Antártico, ni para crear derechos de soberanía en la zona del Tratado Antártico;

b) Se interpretará como una renuncia o menoscabo, por cualquier Parte Contratante, ni como perjudicial a ningún derecho o reclamación o fundamento de reclamación para el ejercicio de la jurisdicción de Estado ribereño conforme al derecho internacional en la zona a que se aplica la presente Convención;

c) Se interpretará como perjudicial para la posición de cualquier Parte Contratante en lo que se re-

fiere a su reconocimiento o no reconocimiento de cualquiera de tales derechos, reclamación o fundamento de reclamación;

d) Afectará a la disposición contenida en el párrafo 2 del Artículo IV del Tratado Antártico, según la cual no se harán nuevas reclamaciones de soberanía territorial en la Antártida ni se ampliarán las reclamaciones anteriormente hechas valer mientras el Tratado Antártico esté en vigor.

ARTICULO V

1. Las Partes Contratantes que no son Partes en el Tratado Antártico reconocen las obligaciones y responsabilidades especiales de las Partes Consultivas del Tratado Antártico en materia de protección y preservación del medio ambiente de la zona del Tratado Antártico.

2. Las Partes Contratantes que no son Partes en el Tratado Antártico acuerdan que, en sus actividades en la zona del Tratado Antártico, observarán, como y cuando sea procedente, las Medidas Acordadas para la Conservación de la Fauna y Flora Antárticas y las demás medidas que hayan sido recomendadas por las Partes Consultivas del Tratado Antártico, en cumplimiento de su responsabilidad en materia de protección del medio ambiente antártico de todas las formas de injerencia humana dañosa.

3. Para los fines de la presente Convención, "Partes Consultivas del Tratado Antártico" significa las Partes Contratantes del Tratado Antártico cuyos representantes participen en las reuniones celebradas de conformidad con lo dispuesto en el Artículo IX del Tratado Antártico.

ARTICULO VI

Nada en la presente Convención derogará los derechos y obligaciones de las Partes Contratantes en virtud de la Convención Internacional para la Caza de la Ballena y la Convención para la Conservación de Focas Antárticas.

ARTICULO VII

1. Las Partes Contratantes establecen y acuerdan mantener por este medio la Comisión para la Conservación de los Recursos Vivos Marinos Antárticos (en adelante denominada la Comisión).

2. La composición de la Comisión será la siguiente:

a) Cada una de las Partes Contratantes que haya participado en la Reunión en la cual se adoptó la presente Convención, será miembro de la Comisión;

b) Cada uno de los Estados Partes que se haya adherido a la presente Convención de conformidad con lo dispuesto en el Artículo XXIX tendrá derecho a ser miembro de la Comisión durante el período en que dicha Parte realice actividades de investigación o recolección relacionadas con los recursos vivos marinos a los que se aplica la presente Convención;

c) Cada una de las organizaciones de integración económica regional que se haya adherido a la presente Convención de conformidad con lo dispuesto en el Artículo XXIX tendrá derecho a ser miembro de la Comisión durante el período en que tengan derecho a ello sus Estados miembros;

d) Una Parte Contratante que desee participar en los trabajos de la Comisión de conformidad con los apartados b) y c) supra notificará al Depositario los fundamentos por los que aspira a ser miembro de la Comisión y su voluntad de aceptar las medidas de conservación en vigor. El Depositario comunicará a cada miembro de la Comisión dicha notificación y la información adjunta. En el plazo de dos meses a partir del recibo de esa comunicación del Depositario, cualquier miembro de la Comisión podrá pedir que se celebre una reunión especial de la Comisión para examinar la cuestión. Una vez recibida esa petición, el Depositario convocará dicha reunión. Si no se pide una reunión, se considerará que la Parte Contratante que presente la notificación reúne las condiciones para ser miembro de la Comisión.

3. Cada uno de los miembros de la Comisión estará representado por un representante que podrá estar acompañado por representantes suplentes y asesores.

ARTICULO VIII

La Comisión tendrá personalidad jurídica y gozará en el territorio de cada uno de los Estados Partes de la capacidad jurídica que pueda ser necesaria para el desempeño de sus funciones y la realización de los objetivos de esta Convención. Los privilegios e inmunidades de la Comisión y de su personal en el territorio de un Estado Parte deberán fijarse mediante acuerdo entre la Comisión y el Estado Parte interesado.

ARTICULO IX

1. La función de la Comisión será llevar a efecto el objetivo y los principios establecidos en el Artículo II de esta Convención. A este fin deberá:

a) Facilitar investigaciones y estudios completos sobre los recursos vivos marinos antárticos y sobre el ecosistema marino antártico;

b) Compilar datos sobre el estado y los cambios de población de los recursos vivos marinos antárticos y sobre los factores que afecten a la distribución, abundancia y productividad de las especies recolectadas y dependientes o de las especies o poblaciones afines;

c) Asegurar la adquisición de datos estadísticos de captura y esfuerzos con respecto a las poblaciones recolectadas;

d) Analizar, difundir y publicar la información mencionada en los apartados b) y c) supra y los informes del Comité Científico;

e) Determinar las necesidades de conservación y analizar la eficacia de las medidas de conservación;

f) Formular, adoptar y revisar medidas de conservación sobre la base de los datos científicos más exactos disponibles, con sujeción a las disposiciones del párrafo 5 del presente Artículo;

g) Aplicar el sistema de observación e inspección establecido en virtud del Artículo XXIV de esta Convención;

h) Realizar otras actividades que sean necesarias para alcanzar el objetivo de la presente Convención.

2. Las medidas de conservación mencionadas en el párrafo 1, f) supra incluirán lo siguiente:

a) La cantidad de cualquier especie que pueda ser recolectada en la zona de aplicación de la Convención;

b) La designación de regiones y subregiones basada en la distribución de las poblaciones de los recursos vivos marinos antárticos;

c) La cantidad que pueda ser recolectada de las poblaciones de las regiones y subregiones;

d) La designación de especies protegidas;

e) El tamaño, edad y, cuando proceda, sexo de las especies que puedan ser recolectadas;

f) Las temporadas de captura y de veda;

g) La apertura y cierre de zonas, regiones o subregiones con fines de estudio científico o conservación, con inclusión de zonas especiales para protección y estudio científico;

h) La reglamentación del esfuerzo empleado y métodos de recolección, incluidos los elementos de pesca, a fin de evitar, entre otras cosas, la concentración indebida de la recolección en cualquier zona o subregión;

i) Los demás aspectos de conservación que la Comisión considere necesarios para el cumplimiento del objetivo de la presente Convención, incluidas medidas relacionadas con los efectos de la recolección y actividades conexas sobre los componentes del ecosistema marino distintos de las poblaciones recolectadas.

3. La Comisión publicará y llevará un registro de todas las medidas de conservación en vigor.

4. Al ejercer sus funciones en virtud del párrafo 1 del presente Artículo, la Comisión tendrá plenamente en cuenta las recomendaciones y opiniones del Comité Científico.

5. La Comisión tendrá plenamente en cuenta toda disposición o medida pertinente establecida o recomendada por las reuniones consultivas en cumplimiento de lo dispuesto en el Artículo IX del Tratado Antártico o por comisiones de pesca existentes encargadas de especies que puedan penetrar en la zona a que la presente Convención se aplica, a fin de que no exista incompatibilidad entre los derechos y obligaciones de una Parte Contratante en virtud de tales disposiciones o medidas y las medidas de conservación que pueda adoptar la Comisión.

6. Los miembros de la Comisión aplicarán las medidas de conservación aprobadas por la Comisión de conformidad con lo dispuesto en la presente Convención de la manera siguiente:

a) La Comisión notificará las medidas de conservación a todos los miembros de la Comisión;

b) Las medidas de conservación serán obligatorias para todos los miembros de la Comisión una vez transcurrridos 180 días a partir de esa notificación, con excepción de lo dispuesto en los apartados c) y d) infra;

c) Si en un plazo de 90 días a partir de la notificación especificada en el apartado a) un miembro de la Comisión comunica a ésta que no puede aceptar, total o parcialmente, una medida de conservación, esa medida no será obligatoria, hasta el alcance establecido, para dicho miembro de la Comisión;

d) En el caso de que cualquier miembro de la Comisión invoque el procedimiento establecido en el apartado c) supra, la Comisión se reunirá a petición de cualquiera de sus miembros para examinar la medida de

conservación. Durante esa reunión y en un plazo de 30 días después de ella, cualquier miembro de la Comisión tendrá derecho a declarar que ya no puede aceptar la medida de conservación, en cuyo caso dicho miembro dejará de estar obligado por tal medida.

ARTICULO X

1. La Comisión señalará a la atención de cualquier Estado que no sea Parte en la presente Convención cualquier actividad emprendida por sus nacionales o buques que, a juicio de la Comisión, afecte al cumplimiento del objetivo de la presente Convención.

2. La Comisión señalará a la atención de todas las Partes Contratantes cualquier actividad que, a juicio de la Comisión, afecte al cumplimiento por una Parte Contratante del objetivo de la presente Convención o a la observancia por dicha Parte Contratante de las obligaciones contraídas en virtud de la presente Convención.

ARTICULO XI

La Comisión procurará cooperar con las Partes Contratantes que ejerzan jurisdicción en zonas marinas adyacentes al área a que se aplica la presente Convención con respecto a la conservación de cualquier reserva o reservas de especies asociadas que existan tanto en dichas zonas como en el área a que se aplica la presente Convención, a fin de armonizar las medidas de conservación adoptadas con respecto a tales reservas.

ARTICULO XII

1. Las decisiones de la Comisión sobre cuestiones de fondo se tomarán por consenso. El determinar si una cuestión es de fondo se considerará como cuestión de fondo.

2. Las decisiones sobre cuestiones que no sean las mencionadas en el párrafo 1 supra se adoptarán por mayoría simple de los miembros de la Comisión presentes y votantes.

3. Cuando la Comisión examine cualquier tema que requiera una decisión, se indicará claramente si en su adopción participará una organización de integración económica regional y, en caso afirmativo, si participará también alguno de sus Estados miembros.

El número de Partes Contratantes que participen de ese modo no deberá exceder del número de Estados miembros de la organización de integración económica regional que sean miembros de la Comisión.

4. Cuando se tomen decisiones de conformidad con el presente Artículo, una organización de integración económica regional tendrá un solo voto.

ARTICULO XIII

1. La sede de la Comisión estará establecida en Hobart, Tasmania, Australia.

2. La Comisión se reunirá regularmente una vez al año. También podrá realizar otras reuniones a solicitud de un tercio de sus miembros o de otra manera prevista en esta Convención. La primera reunión de la Comisión deberá efectuarse dentro de los tres meses a partir de la entrada en vigor de la presente Convención, siempre que entre las Partes Contratantes se encuentren por lo menos dos Estados que realicen actividades de recolección dentro de la zona a que esta Convención se aplica. De cualquier manera, la primera reunión se realizará dentro de un año a partir de la entrada en vigor. El Depositario consultará con los Estados Signatarios respecto de la primera reunión de la Comisión, teniendo en cuenta que es necesaria una amplia representación de los Signatarios para la efectiva operación de la Comisión.

3. El Depositario convocará la primera reunión de la Comisión en la sede de la Comisión. Posteriormente las reuniones de la Comisión se realizarán en su sede a menos que decida lo contrario.

4. La Comisión elegirá entre sus miembros un Presidente y un Vicepresidente por un mandato de dos años cada uno de ellos, que serán reelegibles por un mandato adicional. El primer Presidente, sin embargo, será elegido por un período inicial de tres años. El Presidente y el Vicepresidente no representarán a la misma Parte Contratante.

5. La Comisión aprobará y enmendará cuando lo estime necesario el reglamento para el desarrollo de sus reuniones, excepto en lo relativo a las cuestiones a que se refiere el Artículo XII de esta Convención.

6. La Comisión podrá establecer los órganos auxiliares que sean necesarios para sus funciones.

ARTICULO XIV

1. Las Partes Contratantes establecen por este medio el Comité Científico para la Conservación de los Recursos Vivos Marinos Antárticos (denominado en adelante el Comité Científico), que será un órgano consultivo de la Comisión. El Comité Científico normalmente se reunirá en la sede de la Comisión a menos que decida lo contrario.

2. Cada uno de los miembros de la Comisión será miembro del Comité Científico y nombrará un representante, de capacidad científica adecuada, que podrá estar acompañado por otros expertos y asesores.

3. El Comité Científico podrá buscar el asesoramiento de otros científicos y expertos sobre una base ad hoc.

ARTICULO XV

1. El Comité Científico servirá de foro para la consulta y cooperación en lo relativo a la compilación, estudio e intercambio de información con respecto a los recursos vivos marinos a que se aplica la presente Convención. Alentará y fomentará la cooperación en la esfera de la investigación científica con el fin de ampliar el conocimiento de los recursos vivos marinos del ecosistema marino antártico.

2. El Comité Científico desarrollará las actividades que disponga la Comisión en cumplimiento del objetivo de la presente Convención, y deberá:

a) Establecer los criterios y métodos que hayan de utilizarse en las decisiones relativas a las medidas de conservación mencionadas en el Artículo IX de esta Convención;

b) Evaluar regularmente el estado y las tendencias de las poblaciones de los recursos vivos marinos antárticos;

c) Analizar los datos relativos a los efectos directos e indirectos de la recolección en las poblaciones de los recursos vivos marinos antárticos;

d) Evaluar los efectos de los cambios propuestos en los métodos y niveles de recolección y de las medidas de conservación propuestas;

e) Transmitir a la Comisión evaluaciones, análisis, informes y recomendaciones, que le hayan sido solicitados o por iniciativa propia, sobre las medidas e investigaciones para cumplir el objetivo de la presente Convención;

f) Formular propuestas para la realización de programas internacionales y nacionales de investigación de los recursos vivos marinos antárticos.

3. En el desempeño de sus funciones, el Comité Científico tendrá en cuenta la labor de otras organizaciones técnicas y científicas competentes y las actividades científicas realizadas en el marco del Tratado Antártico.

ARTICULO XVI

1. La primera reunión del Comité Científico se celebrará dentro de los tres meses siguientes a la primera reunión de la Comisión. El Comité Científico se reunirá posteriormente con la frecuencia que sea necesaria para el ejercicio de sus funciones.

2. El Comité Científico adoptará y enmendará, cuando lo estime necesario, su reglamento. El reglamento y cualquier enmienda a éste serán aprobados por la Comisión. El reglamento incluirá procedimientos para la presentación de informes de minorías.

3. El Comité Científico podrá establecer, con aprobación de la Comisión, los órganos auxiliares necesarios para el cumplimiento de sus funciones.

ARTICULO XVII

1. La Comisión designará un Secretario Ejecutivo que estará al servicio de la Comisión y del Comité Científico, de conformidad con los procedimientos, términos y condiciones que determine la Comisión. Su mandato será de cuatro años, pudiendo ser designado de nuevo.

2. La Comisión autorizará la estructura de personal de la Secretaría que sea necesaria y el Secretario Ejecutivo nombrará, dirigirá y supervisará a ese personal, de conformidad con las normas, procedimientos, términos y condiciones que determine la Comisión.

3. El Secretario Ejecutivo y la Secretaría realizarán las funciones que les confíe la Comisión.

ARTICULO XVIII

Los idiomas oficiales de la Comisión y del Comité Científico serán el español, el francés, el inglés y el ruso.

ARTICULO XIX

1. En cada una de sus reuniones anuales, la Comisión adoptará su presupuesto y el presupuesto del Comité Científico por consenso.

2. El Secretario Ejecutivo preparará un proyecto de presupuesto para la Comisión y el Comité Científico y cualesquiera órganos auxiliares, que presentará a las Partes Contratantes por lo menos sesenta días antes de la reunión anual de la Comisión.

3. Cada uno de los miembros de la Comisión contribuirá al presupuesto. Hasta que transcurran 5 años a partir de la entrada en vigor de la presente Convención, las contribuciones de todos los miembros de la Comisión serán iguales.

Después, la contribución se determinará de acuerdo con dos criterios: la cantidad recolectada y una participación igualitaria de todos los miembros de la Comisión. La Comisión determinará por consenso la proporción en que se aplicarán estos dos criterios.

4. Las actividades financieras de la Comisión y del Comité Científico se efectuarán de conformidad con el reglamento financiero aprobado por la Comisión y estarán sometidas a una verificación anual por auditores externos seleccionados por la Comisión.

5. Cada uno de los miembros de la Comisión sufragará sus propios gastos originados por su participación en las reuniones de la Comisión y del Comité Científico.

6. Un miembro de la Comisión que no pague su contribución durante dos años consecutivos no tendrá derecho a participar, durante el período de su incumplimiento, en la adopción de decisiones en la Comisión.

ARTICULO XX

1. Los miembros de la Comisión proporcionarán anualmente a la Comisión y al Comité Científico, en la mayor medida posible, los datos estadísticos, biológicos u otros datos e información que la Comisión y el Comité Científico puedan requerir para el ejercicio de sus funciones.

2. Los miembros de la Comisión proporcionarán, en la forma y con los intervalos que se prescriban, información sobre las actividades de recolección, incluidas las áreas de pesca y buques, a fin de que puedan recopilarse estadísticas fiables de captura y esfuerzo.

3. Los miembros de la Comisión le facilitarán, con los intervalos que se establezcan, información sobre las disposiciones adoptadas para aplicar las medidas de conservación aprobadas por la Comisión.

4. Los miembros de la Comisión acuerdan que, en cualquiera de sus actividades de recolección, se aprovecharán las oportunidades para reunir los datos necesarios a fin de evaluar las repercusiones de la recolección.

ARTICULO XXI

1. Cada una de las Partes Contratantes adoptará las medidas adecuadas, dentro de su competencia, para asegurar el cumplimiento de las disposiciones de la presente Convención y de las medidas de conservación adoptadas por la Comisión que sean obligatorias para la Parte de conformidad con el Artículo IX de esta Convención.

2. Cada una de las Partes Contratantes transmitirá a la Comisión información sobre las medidas adoptadas en virtud de lo dispuesto en el párrafo 1 supra, inclusive la imposición de sanciones por cualquier violación de esta Convención.

ARTICULO XXII

1. Cada una de las Partes Contratantes se compromete a hacer los esfuerzos apropiados, compatibles con la Carta de las Naciones Unidas, con el fin de que nadie se dedique a ninguna actividad contraria al objectivo de la presente Convención.

2. Cada una de las Partes Contratantes notificará a la Comisión cualquier actividad contraria a dicho objetivo que llegue a su conocimiento.

ARTICULO XXIII

1. La Comisión y el Comité Científico cooperarán con las Partes Consultivas del Tratado Antártico en las cuestiones de la competencia de estas últimas.

2. La Comisión y el Comité Científico cooperarán, cuando proceda, con la Organización de las Naciones Unidas para la Agricultura y la Alimentación y con otros organismos especializados.

3. La Comisión y el Comité Científico procurarán establecer relaciones de trabajo cooperativas, cuando proceda, con organizaciones intergubernamentales y no gubernamentales que puedan contribuir a su labor, incluidos el Comité Científico de Investigaciones Antárticas, el Comité Científico de Investigaciones Oceanográficas y la Comisión Ballenera Internacional.

4. La Comisión podrá concertar acuerdos con las organizaciones mencionadas en el presente Artículo y con otras organizaciones, según proceda. La Comisión y el Comité Científico podrán invitar a dichas organizaciones a que envíen observadores a sus reuniones y a las reuniones de sus órganos auxiliares.

ARTICULO XXIV

1. Con el fin de promover el objetivo y asegurar el cumplimiento de las disposiciones de la presente Convención, las Partes Contratantes acuerdan que se establecerá un sistema de observación e inspección.

2. El sistema de observación e inspección será elaborado por la Comisión sobre la base de los siguientes principios:

a) Las Partes Contratantes cooperarán entre sí para asegurar la aplicación efectiva del sistema de observación e inspección, teniendo en cuenta las prácticas internacionales existentes. Dicho sistema incluirá, inter alia, procedimientos para el abordaje e inspección por observadores e inspectores designados por los miembros de la Comisión, y procedimientos para el enjuiciamiento y sanciones por el Estado del pabellón sobre la base de la evidencia resultante de tales abordajes e inspecciones. Un informe sobre dichos procesos y las sanciones impuestas será incluido en la información aludida en el Artículo XXI de esta Convención;

b) A fin de verificar el cumplimiento de las medidas adoptadas en virtud de la presente Convención, la observación e inspección se llevarán a cabo, a bordo de buques dedicados a la investigación científica o a la recolección de recursos vivos marinos en la zona a que se aplica la presente Convención, por observadores e inspectores designados por los miembros de la Comisión, los cuales actuarán conforme a los términos y condiciones que establecerá la Comisión;

c) Los observadores e inspectores designados permanecerán sujetos a la jurisdicción de la Parte Contratante de la que sean nacionales. Ellos informarán a los miembros de la Comisión que los hubieren designado, los que a su vez informarán a la Comisión.

3. En espera de que se establezca el sistema de observación e inspección, los miembros de la Comisión procurarán concertar arreglos provisionales para designar observadores e inspectores, y dichos observadores e inspectores designados estarán facultados para efectuar inspecciones de acuerdo con los principios detallados en el párrafo 2 del presente Artículo.

ARTICULO XXV

1. Si surgiera alguna controversia entre dos o más de las Partes Contratantes en relación con la interpretación o aplicación de la presente Convención, esas Partes Contratantes consultarán entre sí con miras a resolver la controversia mediante negociación, investigación, mediación, conciliación, arbitraje, resolución judicial u otros medios pacíficos de su propia elección.

2. Toda controversia de este carácter no resuelta por tales medios se someterá para su decisión a la Corte Internacional de Justicia o se someterá a arbitraje, con el consentimiento en cada caso de todas las Partes en la controversia; sin embargo, el no llegar

a un acuerdo sobre el sometimiento a la Corte Internacional o a arbitraje no eximirá a las Partes en la controversia de la responsabilidad de seguir procurando resolverla por cualquiera de los diversos medios pacíficos mencionados en el párrafo 1 del presente Artículo.

3. En los casos en que la controversia sea sometida a arbitraje, el tribunal de arbitraje se constituirá en la forma prevista en el Anexo a la presente Convención.

ARTICULO XXVI

1. La presente Convención estará abierta a la firma en Canberra desde el 1º de agosto al 31 de diciembre de 1980 para los Estados participantes en la Conferencia sobre la Conservación de los Recursos Vivos Marinos Antárticos, realizada en Canberra del 7 al 20 de mayo de 1980.

2. Los Estados que así la suscriban serán los Estados signatarios originales de la Convención.

ARTICULO XXVII

1. La presente Convención está sujeta a ratificación, aceptación o aprobación por los Estados signatarios.

2. Los instrumentos de ratificación, aceptación o aprobación se depositarán ante el Gobierno de Australia, designado por la presente como Depositario.

ARTICULO XXVIII

1. La presente Convención entrará en vigor el trigésimo día después de la fecha de depósito del octavo instrumento de ratificación, aceptación o aprobación por los Estados mencionados en el párrafo 1 del Artículo XXVI de esta Convención.

2. Con respecto a cada Estado u organización de integración económica regional que, posteriormente a la fecha de entrada en vigor de esta Convención, deposite un instrumento de ratificación, aceptación, aprobación o adhesión, la Convención entrará en vigor el trigésimo día después de dicho depósito.

ARTICULO XXIX

1. La presente Convención estará abierta a la adhesión de cualquier Estado interesado en actividades de investigación o recolección relacionadas con los recursos vivos marinos a que se aplica la presente Convención.

2. La presente Convención estará abierta a la adhesión de organizaciones de integración económica regional, formadas por Estados soberanos, que incluyan entre sus miembros a uno o más Estados miembros de la Comisión y a las cuales los Estados miembros de la organización hayan transferido, en todo o en parte, competencias en materias de que se ocupa la presente Convención. La adhesión de esas organizaciones de integración económica regional será objeto de consultas entre los miembros de la Comisión.

ARTICULO XXX

1. La presente Convención podrá ser enmendada en cualquier momento.

2. Si un tercio de los miembros de la Comisión solicita una reunión para examinar una enmienda propuesta, el Depositario convocará dicha reunión.

3. Una enmienda entrará en vigor cuando el Depositario haya recibido los instrumentos de ratificación, aceptación o aprobación de dicha enmienda de todos los miembros de la Comisión.

4. Subsiguientemente tal enmienda entrará en vigor con respecto a cualquier otra Parte Contratante cuando el Depositario haya recibido comunicación de su ratificación, aceptación o aprobación por esa Parte. Si no se recibe ninguna notificación de una de dichas Partes Contratantes en el período de un año a partir de la fecha de entrada en vigor de la enmienda de conformidad con el párrafo 3 del presente Artículo, se considerará que esa Parte se ha retirado de la presente Convención.

ARTICULO XXXI

1. Cualquier Parte Contratante podrá retirarse de la presente Convención el 30 de junio de cualquier año, notificando de ello por escrito, a más tardar el 1º de enero del mismo año, al Depositario, quien al recibo de esa notificación la comunicará de inmediato a las demás Partes Contratantes.

2. Cualquier otra Parte Contratante podrá dar aviso de retiro por escrito, dentro de los sesenta días a partir de la fecha de recibo de la notificación del Depositario, a que se refiere el párrafo 1 supra, en cuyo caso la Convención dejará de estar en vigor el 30 de junio del mismo año con respecto a la Parte Contratante que haga dicha notificación.

3. El retiro de cualquier miembro de esta Convención no afectará sus obligaciones financieras originadas por la misma.

ARTICULO XXXII

El Depositario notificará a todas las Partes Contratantes lo siguiente:

a) Firmas de la presente Convención y depósito de instrumentos de ratificación, aceptación, aprobación o adhesión;

b) Fecha de entrada en vigor de la presente Convención o de cualquier enmienda a ella.

ARTICULO XXXIII

1. La presente Convención, cuyos textos en español, francés, inglés y ruso son igualmente auténticos, será depositada ante el Gobierno de Australia, el cual enviará copias debidamente certificadas de ella a todas las Partes signatarias y adherentes.

2. Esta Convención será registrada por el Depositario conforme al Artículo 102 de la Carta de las Naciones Unidas.

Hecha en Canberra el 20 día del mes de mayo de 1980.

EN TESTIMONIO DE LO CUAL, los que suscriben, debidamente autorizados para ello por sus respectivos Gobiernos, han firmado la presente Convención.

ANEXO RELATIVO AL TRIBUNAL DE ARBITRAJE

1. El tribunal de arbitraje mencionado en el párrafo 3 del Artículo XXV estará compuesto por tres árbitros, que se nombrarán de la forma siguiente:

a) La Parte que inicie el procedimiento comunicará el nombre de un árbitro a la otra Parte, la cual, a su vez, comunicará el nombre del segundo árbitro en un plazo de 40 días a partir de tal notificación. Dentro de un plazo de 60 días a partir del nombramiento del segundo árbitro, las Partes nombrarán el tercer árbitro, que no será nacional de ninguna de las Partes ni de la misma nacionalidad que cualquiera de los dos primeros árbitros. El tercer árbitro presidirá el tribunal.

b) Si dentro del plazo establecido no se ha nombrado el segundo árbitro, o si las Partes no han llegado a un acuerdo dentro del plazo establecido sobre el nombramiento del tercer árbitro, dicho árbitro será nombrado, a solicitud de cualquiera de las Partes, por el Secretario General del Tribunal Permanente de Arbitraje entre personalidades de reputación internacional que no tengan la nacionalidad de un Estado Parte en la presente Convención.

2. El tribunal de arbitraje decidirá dónde estará situada su sede y aprobará su propio reglamento.

3. El laudo del tribunal de arbitraje se dictará por mayoría de sus miembros, que no podrán abstenerse de votar.

4. Toda Parte Contratante que no sea Parte en la controversia podrá intervenir en el procedimiento, con consentimiento del tribunal de arbitraje.

5. El laudo del tribunal de arbitraje será definitivo y obligatorio para todas las Partes en la controversia y para cualquier Parte que intervenga en el procedimiento, y se cumplirá sin demora. El tribunal de arbitraje interpretará el laudo a solicitud de una de las Partes en la controversia o de cualquier Parte que haya intervenido.

6. A menos que el tribunal de arbitraje determine otra cosa en razón de las circunstancias particulares del caso, las Partes en la controversia sufragarán por partes iguales los gastos del tribunal, incluida la remuneración de sus miembros.

ARGENTINA
ARGENTINE
АРГЕНТИНА
ARGENTINA

AUSTRALIA
AUSTRALIE
АВСТРАЛИЯ
AUSTRALIA

BELGIUM
BELGIQUE
БЕЛЬГИЯ
BELGICA

CHILE
CHILI
ЧИЛИ
CHILE

FRANCE
FRANCE
ФРАНЦИЯ
FRANCIA

GERMAN DEMOCRATIC REPUBLIC
REPUBLIQUE DEMOCRATIQUE ALLEMANDE
ГЕРМАНСКАЯ ДЕМОКРАТИЧЕСКАЯ РЕСПУБЛИКА
REPUBLICA DEMOCRATICA ALEMANA

GERMANY, FEDERAL REPUBLIQUE OF
ALLEMAGNE, REPUBLIQUE FEDERAL D'
ФЕДЕРАТИВНАЯ РЕСПУБЛИКА ГЕРМАНИИ
ALEMANIA, REPUBLICA FEDERAL DE

H. Palmlier.

JAPAN
JAPON
ЯПОНИЯ
JAPON

Kiyoko Okura

NEW ZEALAND
NOUVELLE-ZEALANDE
НОВАЯ ЗЕЛАНДИЯ
NUEVA ZELANDIA

D. J. Lamman

NORWAY
NORVEGE
НОРВЕГИЯ
NORUEGA

POLAND
POLOGNE
ПОЛЬША
POLONIA

THE REPUBLIC OF SOUTH AFRICA
REPUBLIQUE SUD-AFRICAINE
ЮЖНО-АФРИКАНСКАЯ РЕСПУБЛИКА
REPUBLICA DE SUDAFRICA

UNION OF SOVIET SOCIALIST REPUBLICS
UNION DES REPUBLIQUES SOCIALISTES SOVIETIQUES
СОЮЗ СОВЕТСКИХ СОЦИАЛИСТИЧЕСКИХ РЕСПУБЛИК
UNION DE REPUBLICAS SOCIALISTAS SOVIETICAS

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD
СОЕДИНЕННОЕ КОРОЛЕВСТВО ВЕЛИКОБРИТАНИИ И СЕВЕРНОЙ ИРЛАНДИИ
REINO UNIDO DE GRAN BRETAÑA E IRLANDA DEL NORTE

THE UNITED STATES OF AMERICA
ETATS-UNIS D'AMERIQUE
СОЕДИНЕННЫЕ ШТАТЫ АМЕРИКИ
ESTADOS UNIDOS DE AMERICA

I hereby certify that the foregoing text is a true copy of the Convention on the Conservation of Antartic Marine Living Resources drawn up at Canberra on 20 May 1980

[SEAL]

24 SEP 1980

Assistant Secretary
Legal and Treaties Division,
Department of Foreign Affairs
of Australia.

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