

AGREEMENT BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND  
THE GOVERNMENT OF THE REPUBLIC OF PANAMÁ  
REGARDING A DEBT-FOR-NATURE SWAP

The Government of the United States of America and the Government of the Republic of Panamá,

*Seeking to facilitate the conservation, protection, restoration, and sustainable use and management of tropical forests in Panamá, which provide a wide range of benefits to humankind,*

*Noting that rapid rates of tropical deforestation and forest degradation continue to be serious problems in many regions of the world,*

*Recognizing that the alleviation of external debt in the context of broader economic reforms can reduce economic pressures on countries and result in increased protection for tropical forests,*

*Further recognizing the Government of the Republic of Panamá's strong record in implementing market-based economic reforms including sustained efforts to liberalize its investment regime,*

*Wishing to ensure that resources freed from debt will be used for the conservation of tropical forests,*

*Further recognizing The Nature Conservancy's interest in tropical forest protection in Panamá, and the success of non-governmental organizations in Panamá in conserving and managing tropical forest land in Panamá, and*

*In furtherance of the goals of the U.S. Tropical Forest Conservation Act of 1998, Public Law No. 105-214, and the Foreign Operations, Export Financing, and Related Programs Appropriations Act, as contained in Public Law No. 108-7 (2003),*

Have agreed on this tenth day of July, 2003 and contract as follows:

**ARTICLE I**  
**DEFINITIONS**

- 1.1. Defined Terms. The capitalized terms contained and used in this Agreement shall have the respective meanings ascribed to them in this Section 1.1 and elsewhere in this Agreement. If a capitalized term is not defined in this Agreement and it is defined in the Swap Fee Contractual Agreement, then it shall have the meaning ascribed to it in the

Swap Fee Contractual Agreement.

- (a) "Agreement" means this Agreement between the Government of the United States of America and the Government of the Republic of Panamá Regarding a Debt-for-Nature Swap, as it may be amended from time to time.
- (b) "Business Day" means any day on which the Federal Reserve Bank of New York and GOP are both open for business.
- (c) "Closing" has the meaning set forth in Section 2.3.
- (d) "Closing Date" has the meaning set forth in Section 2.3
- (e) "Debt Reduction Payment" means the transfer of five million six hundred fifty one thousand four hundred forty U.S. dollars (U.S.\$ 5,651,440) by USG from the Debt Restructuring Account to the USAID Account.
- (f) "Debt Restructuring Account" means the "Debt Restructuring Program Account," Account # 11X0091 at the U.S. Department of the Treasury.
- (g) "Differential Payment" means the amount, calculated by USG in its sole discretion, equal to (i) the aggregate amount that would have been owing to USAID under the Outstanding Obligations prior to the Payment Due Date according to the original terms of the Outstanding Obligations, less (ii) an amount equal to the aggregate of all payments made by GOP under the New Obligation prior to the Payment Due Date.
- (h) "Forest Conservation Agreement" means the Forest Conservation Agreement to be entered into among TNC, GOP, the Fund Administrator and the Trustee, as amended from time to time.
- (i) "Forest Land" means (a) that portion of the Chagres River watershed described in Exhibit 1.1 of the Forest Conservation Agreement which will be conserved, maintained and restored with funds provided pursuant to this Agreement and the Trust Agreement, and (b) any other tropical forest land in Panamá approved for conservation, maintenance and restoration by the unanimous vote of the Permanent Voting Members of the Oversight Committee.
- (j) "Fund Administrator" means, initially, Natura, or any subsequent organization agreed upon by the Oversight Committee.
- (k) "GOP" means the Government of the Republic of Panamá, acting primarily through the Ministry of Finance.
- (l) "Natura" means Fundación Natura, a non-profit organization, legally constituted

on March 21, 1991 under the laws of the Republic of Panamá.

(m) "New Obligation" means GOP's new undertakings pursuant to this Agreement that shall replace the Outstanding Obligations and obligate GOP (i) to make the payments to USAID in accordance with Schedule A.1 and the terms and conditions set forth herein and in accordance with USAID's loan management guidelines, and (ii) to make the payments to the Trustee in the amounts set forth in Schedule A.2.

(n) "Outstanding Obligations" means Loans 525-L-017, 525-L-018, 525-L-024, 525-L-025, 525-L-027, 525-L-034, 525-L-040, 525-T-042, 525-T-044, and 525-U-045 under the agreements entitled "Loan and Grant Agreement between the Government of Panamá and the Government of the United States of America Acting through the Agency for International Development for Economic Stabilization," dated January 4, 1967, January 4, 1967, July 7, 1967, July 7, 1967, September 21, 1967, November 25, 1969, January 25, 1973, September 10, 1975, November 28, 1975, and October 14, 1976, respectively, that obligate GOP to repay principal and interest on debt whose outstanding aggregate principal amounts to U.S. sixteen million, one hundred thirty six thousand, eight hundred fifty one dollars (\$16,136,851), as of 30 June 2003.

(o) "Oversight Committee" means the oversight committee formed and operated pursuant to the Forest Conservation Agreement.

(p) "Party" means either the USG or GOP, and "Parties" means, collectively, the USG and GOP.

(q) "Payment Due Date" has the meaning set forth in Section 6.2(a).

(r) "Permanent Voting Members" has the meaning set forth in the Forest Conservation Agreement.

(s) "Swap Fee Contractual Agreement" means that certain Swap Fee Contractual Agreement between the United States and TNC, dated as of the date hereof.

(t) "TFCA" means the U.S. Tropical Forest Conservation Act of 1998, Public Law No. 105-214, as amended.

(u) "TNC" means The Nature Conservancy, a nonprofit corporation organized under the laws of the District of Columbia in the United States of America, and any of its successors.

(v) "Tropical Forest Conservation Trust" means the trust created pursuant to the Trust Agreement and the Trust Law of the Republic of Panamá (Ley No. 1 del 5 de enero de 1984), as it may be amended from time to time.

(w) "Trust Agreement" means the irrevocable Trust Agreement created by GOP as trustor, USG and TNC, as principal donors, and a corporation licensed to perform services as a trustee under the laws of Panamá, as initial trustee, dated as of the date hereof, as it may be amended from time to time.

(x) "Trustee" means, initially, the entity serving as trustee under the Trust Agreement as of the Closing Date, or another Panamanian corporation subsequently designated by the Oversight Committee pursuant to Section 7.1 of the Forest Conservation Agreement, or any successor to any of the foregoing.

(y) "USAID" means the U.S. Agency for International Development.

(z) "USAID Account" means the Debt Restructuring Liquidating Account #11X4137 at the U.S. Agency for International Development in the name of "Controller, Office of Financial Management, Agency for International Development", ALC# 72000001, on the books of the Federal Reserve Bank of New York.

(aa) "U.S. Dollar" means the legal tender of the United States of America.

(bb) "USG" means the Government of the United States of America, acting primarily through the U.S. Department of the Treasury.

## **ARTICLE II CLOSING**

- 2.1. Obligations of the USG. Pursuant to the terms and subject to the conditions hereof, at the Closing USG shall (a) make the Debt Reduction Payment, thereby prepaying a portion of the amounts due and unpaid under the Outstanding Obligations, and concurrently canceling all remaining amounts due and unpaid thereunder, and (b) substitute the New Obligation for the Outstanding Obligations.
- 2.2. Obligations of GOP. Pursuant to the terms and subject to the conditions hereof, at the Closing GOP shall (a) substitute the New Obligation for the Outstanding Obligations, and (b) make the first payment due to the Trustee in accordance with the terms of the Forest Conservation Agreement. USG agrees that the obligation of the GOP to make any payments on the loans evidencing the Outstanding Obligations that would otherwise be required to be made under the terms of such loans on or after June 30, 2003 through the Closing Date shall be suspended subject to the occurrence of the Closing prior to September 30, 2003.
- 2.3. Closing. The consummation of the transactions contemplated in this Article II shall take place simultaneously in a single act (the "Closing") on (a) September 1, 2003, or (b) such other Business Day as may be agreed by the Parties and TNC in writing (the "Closing").

Date").

### ARTICLE III PAYMENT OF NEW OBLIGATIONS

- 3.1. Payments of Principal and Interest. GOP shall (a) make payments of principal and interest to USAID in U.S. Dollars in accordance with Schedule A.1 and in accordance with the payment conditions and default provisions of the Outstanding Obligations, but without regard to any prepayment provisions contained therein, and (b) make payments in U.S. Dollars to the Trustee in accordance with Schedule A.2. All payments made to USAID shall be deposited in the USAID Account by wire transfer in accordance with the wire transfer instructions set forth in Schedule B.
- 3.2. Overdue Payments. Interest shall accrue, at an interest rate of three and twenty-six hundredths percent (3.26%) per annum, on any overdue and unpaid installment of either principal or interest payable to USAID under the New Obligation for the period from and including the applicable payment due date to but excluding the date the overdue amount is paid in full. GOP shall make any such overdue payments in U.S. Dollars in accordance with the payment instructions set forth in Section 3.1 and in accordance with the payment conditions and default provisions of the Outstanding Obligations.
- 3.3. No Assignment. GOP shall not assign, delegate or otherwise transfer any obligations under the New Obligation or this Agreement to any third party without the prior written consent of USG.

### ARTICLE IV CONDITIONS TO CLOSING

- 4.1. Conditions Precedent of the USG. The obligation of the USG hereunder to make the Debt Reduction Payment at the Closing shall be subject to the fulfillment or waiver on or prior to the Closing Date of the following conditions, each of which shall be performed to the satisfaction of the USG:
  - (a) Swap Fee Contractual Agreement. TNC shall have executed and delivered the Swap Fee Contractual Agreement, such agreement shall be in full force and effect as of the Closing Date, and TNC shall have duly performed and complied in all material respects with all agreements, covenants and conditions required to be performed or complied with by it under the Swap Fee Contractual Agreement as of the Closing Date;
  - (b) Forest Conservation Agreement. The Forest Conservation Agreement shall have been executed and delivered by the parties thereto and the transactions contemplated thereunder shall have been consummated prior to, or concurrently with, the Closing, or the conditions to closing set forth in the Forest Conservation Agreement shall have been

satisfied or waived;

(c) Trust Agreement. The Trust Agreement shall have been executed and delivered by the parties thereto and the transactions contemplated thereunder shall have been consummated prior to, or concurrently with, the Closing, or the conditions to closing set forth in the Trust Agreement shall have been satisfied or waived; and

(d) Other Documents. The USG shall have received from GOP such further documents, opinions and/or certificates as the USG shall reasonably request.

#### **ARTICLE V ADDITIONAL COVENANTS OF GOP**

- 5.1. Imposition of Taxes. GOP agrees to take no action, including the imposition of any taxes, levies, fees or other charges, that could reasonably be expected to interfere with or reduce any of the payments required to be made by GOP pursuant to the Forest Conservation Agreement. A breach of this provision will constitute a material breach of this Agreement by GOP.
- 5.2. Consultation. GOP agrees to consult with the USG and TNC before undertaking any action that could reasonably be expected to affect the activities of Fund Administrator or the Tropical Forest Conservation Trust.
- 5.3. Financial Reports. GOP agrees to forward to the USG, within thirty (30) days of receipt, all annual activity reports, financial audits and other reports from the Fund Administrator required by the Forest Conservation Agreement relating to the use of payments received pursuant to the Forest Conservation Agreement. USG acknowledges that reports received from the Trustee or the Fund Administrator will fulfill GOP's requirement of providing those reports to USG.

#### **ARTICLE VI FAILURE TO MAKE PAYMENTS**

- 6.1. New Agreements. In the event GOP fails to make any payment specified in the Forest Conservation Agreement, Trust Agreement or this Agreement when due, no new agreements under Title I of the U.S. Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law No. 83-480) and/or credit agreements under the U.S. Food for Progress Act of 1985 (Public Law No. 99-198) shall be concluded by USG and GOP unless and until GOP shall have made all payments due under the Forest Conservation Agreement, Trust Agreement or this Agreement, or USG otherwise agrees.
- 6.2. Outstanding Obligations Restored.
  - (a) Consultation. In the event that GOP fails to make any payment specified in this

Agreement, Trust Agreement or in the Forest Conservation Agreement when due (the "Payment Due Date"), GOP shall commence discussions with USG within seven (7) Business Days after the Payment Due Date to seek to resolve such matter.

(b) Discounts Reversed. If GOP does not make full payment under this Agreement, the Trust Agreement or the Forest Conservation Agreement (including all accrued interest due as set forth in this Agreement, the Trust Agreement and the Forest Conservation Agreement, as the case may be) within thirty (30) Business Days after the Payment Due Date, then the discounts on the Outstanding Obligations offered as a concession to GOP in this Agreement shall be reversed and the undiscounted obligations of GOP under the Outstanding Obligations shall be restored in accordance with the following procedures: (i) all future payments of principal and interest specified in Schedule A.1 shall be made in accordance with the terms of this Agreement to an account to be designated by USG, (ii) all future payments specified in Schedule A.2 shall be made to the Fund Administrator or the Trustee in accordance with the terms of the Forest Conservation Agreement and Trust Agreement, (iii) GOP shall immediately make the Differential Payment to an account to be designated by USG to reverse any past discounts received by GOP, and (iv) GOP shall make future payments to an account to be designated by USG in an amount, calculated by USG in its sole discretion, equal to (A) the amount that would have been owing to USAID under the Outstanding Obligations after the Payment Due Date according to the original terms of the Outstanding Obligations, less (B) an amount equal to the aggregate of the payments made to USG, the Fund Administrator and the Trustee in accordance with (b)(i) and (b)(ii) above.

## **ARTICLE VII CONSULTATION**

Upon the written request of either Party, the Parties shall consult concerning the implementation or interpretation of this Agreement. These consultations shall take place within thirty (30) days after a request for consultations is received from the other Party.

## **ARTICLE VIII AMENDMENT AND NOTIFICATION**

- 8.1. Amendment Waiver. This Agreement may be amended with the written consent of both Parties. No provision of this Agreement may be waived orally, but only by a written instrument signed by the party against whom enforcement of such waiver is sought. A failure or delay in exercising any right, power or privilege in respect of this Agreement shall not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege shall not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
- 8.2. Notice. All notifications, consents, requests, approvals, reports and other

communications provided for under the Agreement shall be in writing and delivered as follows:

- (a) To the USG:

Deputy Assistant Secretary for International  
Development, Debt and Quantitative Policy  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220 U.S.A.  
(202) 622-0070 (telephone)  
202-622-9212 (facsimile)

- (b) To GOP:

Ministry of Economy & Finance  
Directorate of Public Credit  
Via España, Edif. Ogawa, 4<sup>th</sup> Floor  
Panamá, Rep. of Panamá  
(507) 269-4992 (telephone)  
(507) 223-1405 (facsimile)  
crpmp@Bloomberg.net

Attn: Aracelly Mendez  
Director of Public Credit

- 8.3. Counterparts. This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one instrument. This Agreement shall not be effective unless and until signed by each party hereto.

#### **ARTICLE IX ENTRY INTO FORCE AND TERMINATION**

- 9.1. Entry into Force. This Agreement shall enter into force upon the date that is twenty (20) days following the date of signature below. Each Party's signature below evidences that all necessary domestic legal requirements for entry into force of the Agreement shall be fulfilled under the respective Party's laws on the date that this Agreement enters into force.
- 9.2. Termination. This Agreement shall terminate (a) on September 30, 2003 if the Closing shall not have occurred before that date, or (b) if the Closing has occurred, upon the payment by GOP of all amounts due under the Forest Conservation Agreement. In

addition, a party hereto may terminate this Agreement upon the termination of the Forest Conservation Agreement, Swap Fee Agreement or Trust Agreement; provided that the party terminating this Agreement is not in default under the Forest Conservation Agreement, Swap Fee Agreement or Trust Agreement.

**ARTICLE X  
OTHER PROVISIONS**

10.1. Schedules. The following schedules are part of this Agreement:

Schedule A.1	Payment Schedule to USAID under New Obligations
Schedule A.2	Payment Schedule to the Trustee
Schedule B	Wire Transfer Instructions

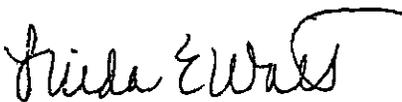
[End of text, signature page follows]

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Government, have executed and delivered this Agreement.

DONE at Panamá City, in duplicate in the English language, this 10<sup>th</sup> day of July, 2003.

UNITED STATES OF AMERICA:

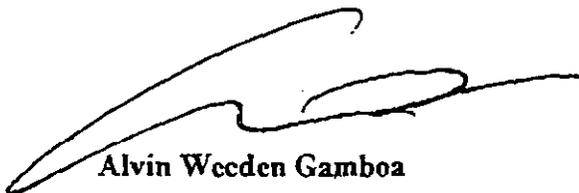
REPUBLIC OF PANAMÁ:



Linda Watt  
Ambassador

  
Norberto Delgado Durán  
Minister of Economy and Finance

GENERAL COMPTROLLER OF PANAMA

  
Alvin Weeden Gamboa

**SCHEDULE A.1**  
**SCHEDULE OF PAYMENTS TO USAID UNDER NEW OBLIGATIONS**

USAID Loan 525-L-017		USAID Loan 525-L-018		USAID Loan 525-L-024		USAID Loan 525-L-025		USAID Loan 525-L-027		
Scheduled Principal	Scheduled Interest									
7/14/03	\$ 22,658	10/23/2003	63,117.	10/3/2003	22,710.	11/8/2003	41,527.	12/20/03	72474	0
1/14/04	\$ 22,941	4/23/2004	63,906.	4/3/2004	22,993.	5/8/2004	42,046.	6/20/04	73380	0
7/14/04	\$ 23,228	10/23/2004	64,704.	10/3/2004	23,281.	11/8/2004	42,571.	12/20/04	74297	0
1/14/05	\$ 23,519	4/23/2005	65,513.	4/3/2005	23,572.	5/8/2005	43,103.	6/20/05	75226	0
7/14/05	\$ 23,813	10/23/2005	66,332.	10/3/2005	23,667.	11/8/2005	43,642.	12/20/05	76166	0
1/14/06	\$ 24,110	4/23/2006	67,161.	4/3/2006	24,165.	5/8/2006	44,188.	6/20/06	77118	0
7/14/06	\$ 24,412	10/23/2006	68,001.	10/3/2006	24,467.	11/8/2006	44,740.	12/20/06	78082	0
1/14/07	\$ 24,717	4/23/2007	68,851.	4/3/2007	24,773.	5/8/2007	45,299.	6/20/07	79058	0
7/14/07	\$ 23,307	10/23/2007	69,712.	10/3/2007	25,082.	11/8/2007	45,865.	12/20/07	80046	0
<b>TOTAL</b>	<b>212,705</b>	<b>TOTAL</b>	<b>597,297</b>	<b>TOTAL</b>	<b>240,306</b>	<b>TOTAL</b>	<b>439,420</b>	<b>TOTAL</b>	<b>766,894</b>	<b>-</b>
USAID Loan 525-L-034		USAID Loan 525-L-040		USAID Loan 525-T-042		USAID Loan 525-T-044		USAID Loan 525-U-045		
Scheduled Principal	Scheduled Interest									
11/5/2003	0.	9/26/2003	69,870.	8/12/03	104,257	7/29/2003	0.	9/20/2003	0.	0.
5/5/2004	0.	3/26/2004	70,919.	2/12/04	105,821	1/29/2004	0.	3/20/2004	0.	0.
11/5/2004	0.	9/26/2004	71,982.	8/12/04	107,408	7/29/2004	0.	9/20/2004	0.	0.
5/5/2005	0.	3/26/2005	73,052.	2/12/05	109,019	1/29/2005	0.	3/20/2005	0.	0.
11/5/2005	0.	9/26/2005	74,158.	8/12/05	110,655	7/29/2005	0.	9/20/2005	0.	0.

5/5/2006	76,943.	0.	3/26/2006	75,270.	0.	2/12/06	112,314	41,025	1/29/2006	0.	3/20/2006	0.	0.
11/5/2006	78,097.	0.	9/26/2006	76,399.	0.	8/12/06	113,999	39,437	7/29/2006	0.	9/20/2006	0.	0.
5/5/2007	79,268.	0.	3/26/2007	77,545.	0.	2/12/07	115,709	37,825	1/29/2007	0.	3/20/2007	0.	0.
11/5/2007	80,458.	0.	9/26/2007	78,709.	0.	8/12/07	117,445	36,190	7/29/2007	0.	9/20/2007	0.	0.
5/5/2008	81,665.	0.	3/26/2008	79,889.	0.	2/12/08	119,208	34,529	1/29/2008	0.	3/20/2008	0.	0.
11/5/2008	82,890.	0.	9/26/2008	81,088.	0.	8/12/08	120,995	32,844	7/29/2008	0.	9/20/2008	0.	0.
5/5/2009	84,133.	0.	3/26/2009	82,304.	0.	2/12/09	122,809	31,134	1/29/2009	0.	3/20/2009	0.	0.
11/5/2009	85,395.	0.	9/26/2009	83,538.	0.	8/12/09	124,652	29,398	7/29/2009	0.	9/20/2009	0.	0.
5/5/2010	86,676.	0.	3/26/2010	84,791.	0.	2/12/10	126,521	27,635	1/29/2010	0.	3/20/2010	0.	0.
			9/26/2010	86,063.	0.	8/12/10	128,419	25,846	7/29/2010	0.	9/20/2010	0.	0.
			3/26/2011	87,354.	0.	2/12/11	130,345	24,031	1/29/2011	0.	3/20/2011	0.	0.
			9/26/2011	88,665.	0.	8/12/11	132,301	22,189	7/29/2011	0.	9/20/2011	0.	0.
			3/26/2012	89,995.	0.	2/12/12	134,285	20,318	1/29/2012	0.	3/20/2012	0.	0.
			9/26/2012	91,344.	0.	8/12/12	136,299	18,420	7/29/2012	0.	9/20/2012	0.	0.
			3/26/2013	92,715.	0.	2/12/13	138,344	16,492	1/29/2013	0.	3/20/2013	0.	0.
			9/26/2013	94,105.	0.	8/12/13	140,419	14,537	7/29/2013	0.	9/20/2013	0.	0.
						2/12/14	142,525	12,552	1/29/2014	0.	3/20/2014	0.	0.
						8/12/14	144,663	10,537	7/29/2014	0.	9/20/2014	0.	0.
						2/12/15	146,833	8,492	1/29/2015	0.	3/20/2015	0.	0.
						8/12/15	149,036	6,416	7/29/2015	0.	9/20/2015	0.	0.
						2/12/16	151,271	4,309	1/29/2016	0.	3/20/2016	0.	0.
						8/12/16	153,540.	2,171	7/29/2016	0.	9/20/2016	0.	0.
											3/20/2017	0.	0.
TOTAL	1,103,518	-	TOTAL	1,709,765	-	TOTAL	3,439,090	724,461	TOTAL	-	TOTAL	-	-

**SCHEDULE A.2**  
**Schedule of Payments to Trustee under the New Obligations**

<b>Payment Date</b>	<b>Payment Amount</b>
Closing Date	402,337
11/20/2003	407,837
5/20/2004	402,792
11/20/2004	397,677
5/20/2005	392,489
11/20/2005	387,236
5/20/2006	381,907
11/20/2006	376,507
5/20/2007	371,032
11/20/2007	365,506
5/20/2008	361,081
11/20/2008	357,505
5/20/2009	354,903
11/20/2009	352,261
5/20/2010	349,581
11/20/2010	348,179
5/20/2011	346,754
11/20/2011	345,311
5/20/2012	343,844
11/20/2012	342,358
5/20/2013	340,847
11/20/2013	339,315
5/20/2014	339,191
11/20/2014	339,067
5/20/2015	338,940
11/20/2015	338,811
5/20/2016	338,681
11/20/2016	238,052
<b>TOTAL</b>	<b>10,000,000</b>

\* \* \*

**SCHEDULE B**  
**Wire Transfer Instructions**

US Dollar wire transfers to USAID must be made from a foreign central bank to a U.S. bank which is "on-line" with the Federal Reserve. The Federal Reserve only deals with foreign central banks. The receiving U.S. bank must have an on-line connection with the Federal Reserve.

2. The information supplied on the wire transfer must include:
  - a. USAID ABA No. = 021030004.
  - b. *Federal Reserve Foreign Dept.*  
Type Code = 15 = *Payments from Foreign Central Banks*  
Type Code = 10 = *Payments from Commercial Banks*
  - c. ABA (Account) No. of sender.
  - d. US Dollar Amount
  - e. USAID Agency Location Code (ALC) = 72000001
  - f. Detail concerning purpose of payment
3. Questions: Federal Reserve/New York (212) 720-5840.