

Loan No: 24/VF-GY  
Resolution DE-195/78

LOAN CONTRACT

between

GUYANA

and the

INTER-AMERICAN DEVELOPMENT BANK  
in its capacity as Trustee of  
the Trust Fund created by the  
Venezuelan Investment Fund

(Upper Demerara Forestry Project)

May 29, 1979,



## LOAN CONTRACT

CONTRACT entered into on May 29, 1979 between GUYANA (hereinafter called the "Borrower") and the INTER-AMERICAN DEVELOPMENT BANK (hereinafter called the "Trustee"), in its capacity as Trustee of the Trust Fund specified below (hereinafter called the "Fund").

This Contract is entered into pursuant to the Trust Agreement (hereinafter called the "Trust Agreement"), signed on February 27, 1975 between the Inter-American Development Bank and the Venezuelan Investment Fund.

### PART ONE

#### SPECIAL CONDITIONS

##### CHAPTER I

###### The Loan, Purpose, and Executing Agency

Section 1.01. Amount. In accordance with this Contract, the Trustee agrees to grant to the Borrower, and it accepts, financing (hereinafter termed the "Financing"), chargeable to the resources of the Venezuelan Trust Fund, of up to the amount of six million United States dollars (US\$6,000,000), or the equivalent thereof in bolivars forming part of such Fund. The amounts disbursed from the Financing shall constitute the "Loan".

Section 1.02. Purpose. The purpose of the Financing is to cooperate in the execution of the Upper Demerara Forestry Project (hereinafter termed the "Project"). The Project is described in more detail in Annex B of the Contract.

Section 1.03. Executing Agency. The parties agree that the execution of the Project and the utilisation of the resources of the Financing shall be carried out by Demerara Woods Limited (hereinafter termed the "Executing Agency"), as to the legal and financial capacity of which to function as such the Borrower gives its assurance.

##### CHAPTER II

###### Amortisation, Interest and Commitment Fee

Section 2.01. Amortisation. The Loan shall be completely repaid by the Borrower not later than May 24, 1999 by means of consecutive, semi-annual and, as far as possible, equal installments, the first of which shall be made on November 24, 1985. Prior to the date established herein for the payment of the first installment, the Trustee shall send to the Borrower an amortisation schedule setting forth the dates for payment of the installments and the currency or currencies which, pursuant to Section 2.05 hereof, shall be utilised for each installment. The amortisation schedule may be amended by the Trustee, if required, pursuant to the provisions of Section 3.10.

Section 2.02. Interest. (a) The Borrower, pursuant to the provisions of Section 2.05(c) shall pay interest semiannually on the outstanding balance of the Loan at the rate of 7- $\frac{3}{8}$ % per annum, which shall accrue from the date of each respective disbursement. Interest shall be payable semi-annually on May 24 and November 24 of each year, beginning on November 24, 1979.

(b) At the request of the Borrower, the resources of the Loan may be utilised to pay interest accruing during the disbursement period of the Loan.

Section 2.03. Commitment Fee. (a) In addition to interest, the Borrower shall pay a commitment fee of 1 $\frac{1}{2}$ % per annum on the undisbursed balance of the amount set forth in Section 1.01 hereof, which fee shall begin to accrue sixty (60) days after the date of this Contract.

(b) This fee shall be paid on the same dates specified for the payment of interest and the payment shall be made in United States dollars.

(c) This fee shall cease to accrue in full or in part, as the case may be, as soon as: (i) all disbursements have been made; (ii) the Financing has been cancelled in full or in part pursuant to Section 3.07, 3.08 or 3.09; or (iii) disbursements have been suspended pursuant to Section 4.01.

Section 2.04. Computation of Interest and Commitment Fee. Interest and commitment fee for less than a full six-month period shall be calculated on a per day basis, using a factor of three hundred and sixty-five (365) days per annum.

Section 2.05. Obligations Relating to Currencies. (a) Amounts which are disbursed shall be applied, on the date of each respective disbursement, against the Financing in accordance with the equivalency in United States dollars as reasonably determined by the Trustee, utilising the rate of exchange, as of the aforesaid date, at which the Trustee carries the respective currency on its books, or, when appropriate, the rate of exchange pursuant to the then effective understanding of the Trustee with Guyana for the purposes of maintaining the value of its currency held by the Trustee.

(b) The Loan shall be denominated and payable in the currencies which the Trustee shall have disbursed.

(c) The payment of amortisation and interest shall be made in the respective currencies disbursed.

Section 2.06. Participations. (a) The Trustee may cede to other public or private institutions, in the form of participations and to the extent it may deem proper, the rights corresponding to the Borrower's pecuniary obligations derived from this Contract. The Trustee shall promptly notify the Borrower of each participation.

(b) Participations may be granted in respect of the following at any time during the life of the Contract: (i) any part of the Loan disbursed prior to signature of the participation contract; and (ii) amounts in currencies available to the Trustee for disbursement at the time of entering into the participation contract.

(c) Payment of interest, commitment fee and amortisation installments shall be made in the currency in which the participation concerned was effected. Such payments shall be made to the Trustee for transfer to the respective participant.

Section 2.07. Place of Payments. All payments shall be made at the principal office of the Trustee in Washington, D.C., U.S.A. unless the Trustee designates another place or places for this purpose by written notification to the Borrower.

Section 2.08 Receipt and Promissory Notes. At the request of the Trustee, the Borrower shall sign and deliver to the Trustee a receipt or receipts for the amounts disbursed. During the disbursement period and particularly at the conclusion thereof, the Borrower shall also sign and deliver to the Trustee, at its request, promissory notes or other negotiable instruments representing Borrower's obligations to repay the Loan with the interest agreed upon herein. Such documents shall be in the form prescribed by the Trustee, taking into account, however, any applicable provisions of Guyana law.

Section 2.09. Application of Payments. All payments shall be applied first to the commitment fee, then to interest due, and if a balance exists, to installments of principal due.

Section 2.10. Advance Payments. Upon advance notice in writing to the Trustee of at least forty-five (45) days, the Borrower may pay on the date indicated in the notification any part of the Loan prior to its maturity, provided that no sum is owing in respect of interest and/or commitment fee. Unless otherwise agreed in writing, each partial advance payment shall be applied to unpaid installments of principal in the inverse order of their maturity.

Section 2.11. Payments Falling Due on Public Holiday. Any payment or other transaction which is to be performed under this Contract and which falls due on Saturday or a public holiday according to the law of the place where such payment or transaction is to be effected, shall be considered valid if carried out the first business day thereafter and in such case no penalty or surcharge shall apply.

### CHAPTER III

#### Conditions Precedent to and Other Regulations Concerning Disbursement

Section 3.01. Conditions Precedent to First Disbursement. The first disbursement of the Financing shall be subject to the fulfillment of the following requirements to the satisfaction of the Trustee:

(a) The Trustee shall have received one or more legal opinions which establish, with citations to the pertinent constitutional, legal and regulatory dispositions of Guyana, that the obligations undertaken by the Borrower in this Contract are valid and enforceable. Such opinions shall also cover any other legal question that the Trustee may deem relevant.

(b) The Trustee shall have received proof that the person or persons signing this Contract on behalf of the Borrower have been properly authorised to do so or, conversely, proof that this Contract has been validly ratified.

(c) The Borrower, through the Executing Agency, shall have designated one or more officials to represent it in all acts relating to the implementation of this Contract and shall have furnished the Trustee with authentic copies of the signatures of such representatives. Should two or more officials be designated, there shall be indicated to the Trustee whether such officials are to act jointly or separately.

(d) It shall have been demonstrated to the Trustee that resources have been assigned sufficient to cover, at least during the first calendar year, the execution of the Project in accordance with the investment schedule referred to in the following paragraph.

(e) The Borrower, through the Executing Agency, shall have presented to the Trustee, an initial report prepared in the manner indicated by the Trustee, which shall serve as the basis for the preparation and evaluation of subsequent progress reports referred to in Section 6.03. In addition to such other information as the Trustee may reasonably request pursuant to the provisions of this Contract, the initial report shall set forth: (i) a plan for the execution of works, including the details and specifications deemed necessary by the Trustee, (ii) a calendar or schedule of work; and (iii) a table of the source and use of funds setting forth a detailed schedule of investments in accordance with the categories of investment established in Annex B of this Contract and an indication of the annual contributions needed from the various sources of funds from which the Project will be financed.

(f) The Borrower, through the Executing Agency, shall have presented to the Trustee the plan, catalogue or code of accounts referred to in Section 6.01 hereof.

(g) The Borrower, through the Executing Agency, shall have presented evidence to the Trustee that: (i) the agreements between the Borrower and: (1) the appropriate institutions for the external financing provided for under Section 5.05 (a) hereof, and (2) the European Investment Bank, shall have been signed; (ii) the credit agreement ("Credit Agreement") between the Borrower and the Executing Agency has been signed pursuant to the draft previously approved by the Trustee, transferring the Loan proceeds to the Executing Agency on the same conditions as those entered into between the Borrower and the Trustee; (iii) the Executing Agency has contracted the consulting firm for the supervision of the execution of the Project; and (iv) the Project Director, Project Officer, Secretary and Accountant, selected by the Executing Agency, have assumed their responsibilities.

(h) The Office of the Auditor General of Guyana shall have agreed to carry out the auditing functions required by Section 6.03(b) hereof.

Section 3.02. Requisites for all Disbursements. For the Trustee to make disbursements, it shall be necessary that: (a) the Borrower shall have submitted in writing a disbursement application and, in support thereof, shall have supplied to the satisfaction of the Trustee, such documents and other background materials as the latter may reasonably require; and (b) none of the circumstances described in Section 4.01 shall have occurred.

Section 3.03. Disbursements for Inspection and Supervision. The Trustee may effect the disbursements relating to the fee for general inspection and supervision provided for in Section 6.02(c), without the necessity of an application by the Borrower or the Executing Agency, provided that the conditions for the first disbursement have been fulfilled.

Section 3.04. Disbursement Procedures. The Trustee may make disbursements against the Financing by: (a) transferring directly to the Borrower the sum to which it is entitled under the terms of this Contract; (b) making payments on behalf of and in agreement with the Borrower to other banking institutions; (c) constituting or replenishing the revolving fund referred to in Section 3.05; and (d) utilising such other methods as the parties may agree upon in writing. Any banking expense that may be charged by a third party in connection with disbursements shall be borne by the Borrower. Unless the parties otherwise agree, disbursements shall be made in amounts of not less than the equivalent of fifty thousand United States dollars (US\$50,000) each.

Section 3.05. Revolving Fund. By charge to the Financing, and upon fulfillment of the requirements set forth in Section 3.01 and 3.02, the Trustee may, from the amount referred to in Section 1.01, establish a revolving fund which shall be utilised to defray costs pertaining to the execution of the Project and which, except by special agreement between the parties, shall not exceed 10% of the amount of the Financing. Upon request, the Trustee may replenish this fund, entirely or in part, as the resources are used, provided that the requirements of Section 3.02 are fulfilled. The establishment and replenishment of the revolving fund shall be considered as disbursement for all purposes of this Contract.

Section 3.06. Expenses in Local Currency. In order to determine the equivalence in United States dollars of any sum in Guyana dollars utilised to cover expenses in such currency, the exchange rate to be applied shall be the rate effective on the date the respective expense is incurred following the rules set forth in Section 2.05(a), or such other exchange rate as may be mutually agreed upon.

Section 3.07. Period for Requesting First Disbursement. If by November 29, 1979, or such later date as the parties may agree upon in writing an appropriate request for disbursement has not been submitted to the Trustee after the fulfillment of the conditions of first disbursement set forth in Sections 3.01 and 3.02, the Trustee may terminate the Contract by notice to the Borrower. Disbursements made by the Trustee pursuant to Section 6.02(c) shall not be considered as involving applications for disbursements in satisfaction of this Section.

Section 3.08. Period for Total Disbursement. The resources of the Financing may be disbursed only during a period of three (3) years after the date of the Contract, that is up to May 29, 1982. Unless the parties hereto agree in writing to extend this period, this Contract shall be considered automatically cancelled in respect to any portion of such sum not disbursed within such period.

Section 3.09. Renunciation of Part of the Financing. The Borrower may renounce upon written notice to the Trustee, its right to utilise any part of the Financing which has not been disbursed before the receipt of the notice, provided that such part is not subject to any of the circumstances set forth in Section 4.03.

Section 3.10. Adjustment of Amortisation Installments. (a) If, pursuant to the provisions of Section 2.0 and 3.0, the Borrower's rights to receive any part of the sum set forth in Section 1.01 should be terminated, the Trustee shall make a proportional adjustment in the amortisation installment schedule referred to in Section 2.01.

(b) This adjustment shall not affect any part of any amortisation installment with regard to which the Trustee may have granted participations pursuant to Section 2.06 on the assumption that the Borrower would utilise the entire Loan. Repayment of the outstanding balance of the Loan in excess of the amount for which the Trustee may have contracted participations shall be made in as many equal and consecutive semiannual installments as may be necessary to maintain unchanged the number of installments referred to in Section 2.01.

#### CHAPTER IV

##### Nonfulfillment of the Borrower's Obligations

Section 4.01. Suspension of Disbursements. The Trustee, by written notice to the Borrower, may suspend disbursements if any of the following circumstances occurs, and so long as it continues:

(a) Delay in the payment of any sums owed by the Borrower for principal, interest and commitment fee, or for any other charge under this or any other contract entered into between the Trustee and the Borrower.

(b) Nonfulfillment by the Borrower of any other obligation set forth in this Contract.

(c) Withdrawal or suspension of Guyana from membership in the Inter-American Development Bank.

(d) The termination of the Trust Agreement.

(e) Any restriction of the legal capacity or any substantial change in the functions or assets of the Executing Agency which may have an unfavourable effect on the Project or on the purposes for which this Contract was entered into. If the Trustee believes that the above situation has occurred, it shall transmit its observations to the Borrower so that the latter may furnish, within a reasonable time, whatever clarifications or comments may be appropriate or proof of having taken measures necessary to correct the situation. The Trustee shall be entitled to exercise its right to suspend disbursements only if it is not satisfied with the clarifications or comments or the measures taken by the Borrower to correct the situation.

(f) Any other extraordinary circumstance that in the opinion of the Trustee may prevent the Borrower from fulfilling the obligations undertaken under this Contract or which may not permit to satisfy the purposes provided for at the time of its celebration.

Section 4.02. Termination or Accelerated Maturity. If any of the circumstances set forth in paragraphs (a), (b) and (c) of the preceding Section continues for more than sixty (60) days or if under paragraph (e) thereof the clarifications or additional information presented by the Borrower, if any, is not satisfactory, the Trustee may terminate the Contract with respect to the part of the Financing not yet disbursed, and/or may declare immediately due and payable the entire Loan or any part of it together with interest and commitment fee accrued up to the date of payment. In the event of the situation referred to in above Section 4.01(d), the procedure set up in Section 7.04 of this Contract shall be followed.

Section 4.03. Obligations not Affected. Notwithstanding the provisions of Sections 4.01 and 4.02, none of the measures set forth in this Chapter shall affect: (a) any amounts subject to the guarantee of an irrevocable letter of credit and (b) any amounts which the Bank by specific written agreement with the Borrower or the Executing Agency, as the case may be, has agreed to provide from the resources of the Financing to make payments to a supplier of goods and services.

Section 4.04. Nonwaiver of Rights. Delay by the Trustee in exercise of the rights provided by this Chapter, or failure to exercise them, shall not be construed as a waiver by the Trustee of any such rights nor as acquiescence in the circumstances that would have empowered it to exercise them.

Section 4.05. Provisions not Affected. The application of any of the measures provided for by this Chapter shall not affect the obligations of the Borrower established in this Contract, which shall remain in full force and effect, except that in the case the entire Loan has been declared due and payable, only the pecuniary obligations of the Borrower shall continue in force.

## CHAPTER V

### Execution of the Project

Section 5.01. Execution of the Project. (a) The Borrower undertakes that the Project shall be executed with due diligence in conformity with sound financial and technical practices, and in accordance with the plans, specifications, investment schedule, budgets, regulations and other documents approved by the Trustee.

(b) Any important modifications in the plans, specifications, investment schedule, budgets, regulations and other documents which the Trustee has approved, as well as any substantial change in the contract or contracts for goods and services which may be funded with the resources devoted to the execution of the Project or in the categories of investments, shall require the written consent of the Trustee.

Section 5.02. Prices and Public Tenders. (a) Contracts for construction and for the supply of services, as well as all procurements of goods for the Project, shall be undertaken at a reasonable cost which will generally be the lowest market price, taking into account quality, delivery and any other pertinent factors.

(b) In the acquisition of machinery, equipment and other goods connected with the Project and in awarding contracts for construction and other works, the system of public tender shall be utilised in each case in which the value of such acquisitions or contracts exceeds the equivalent of one hundred thousand United States dollars (US\$100,000), pursuant to the provisions of the Tender Procedures set forth in Annex C hereto, which Annex forms an integral part of the Contract.



(c) Except as the Trustee may otherwise approve, the Executing Agency shall present to the Trustee, prior to each invitation to tender or the initiation of any work, the general plans, specifications, budget and bidding documents.

Section 5.03. Currencies and Use of Funds. (a) The Financing shall be disbursed in United States dollars or the equivalent in bolivars which are part of the resources of the Venezuelan Trust Fund, to pay for goods and services acquired through international competition and for such other purposes as are indicated in this Contract.

(b) The Financing may be utilized only for payments in the territories of: (i) countries which are members of the Inter-American Development Bank; (ii) relatively undeveloped countries which are members of the International Monetary Fund, or (iii) developed countries, which on the date on which the respective acquisition documents or contracts for the provision of services are signed, have been declared eligible by the Inter-American Development Bank for that purpose.

(c) The goods acquired with the resources of the Financing shall be used exclusively for the purposes of the Project. The express agreement of the Trustee shall be necessary in the case the Borrower or the Executing Agency shall desire to dispose of such goods for other purpose, except that the construction, machinery and equipment utilized in the execution of the Project may be dedicated to different uses after the Project has been completed.

Section 5.04. Cost of the Project. The total cost of the Project financed by this Loan is estimated to be the equivalent of thirty-one million eight hundred thousand United States dollars (US\$31,800,000).

Section 5.05. Additional Resources. (a) The Borrower shall contribute in a timely manner all national resources, in addition to the Loan, which may be necessary for the complete and uninterrupted execution of the Project, the estimated amount of which is specified to be not less than the equivalent of twenty-five million eight hundred thousand United States dollars (US\$25,800,000). This estimate shall not imply any limitation or reduction of the obligation of the Borrower to supply such additional resources as may be required under this Section. Therefore, if during the disbursement of the Financing an increase in the estimated cost of the Project arises, the Trustee may require the modification of the investment schedule referred to in Section 3.01 (e) of this Contract. The rules set forth in Section 2.05(a) shall be utilized to calculate the equivalent in United States dollars. This estimate includes (i) a loan for the equivalent of ten million United States dollars (US\$10,000,000) from the World Bank (IBRD); (ii) a loan for the equivalent of six million United States dollars (US\$6,000,000) from the European Development Fund (EDF); and a grant of the equivalent of one million United States dollars (US\$1,000,000) from said European Development Fund (EDF).

(b) Beginning with the calendar year following the initiation of the Project and during the period of its execution, the Borrower shall demonstrate to the Trustee in the first sixty (60) days of each calendar year that it will have available when needed the resources necessary to make the local contribution to the Project during the respective year.

Section 5.06. Special Conditions for the Execution of the Project. (a) The Borrower agrees to take necessary measures to ensure that, while the obligations of the Executing Agency under the Credit Agreement referred to in Section 3.01(g) are pending, the Executing Agency shall not, without prior agreement by the Trustee: (I) maintain a long-term debt/equity ratio greater than 70:30; (II) incur any new long-term debt, except for the completion of the Project, if as a result of such debt, its estimated debt service coverage shall be less than 1.5; (III) declare or pay dividends, in a form other than its own shares, unless it shall have fulfilled the following requirements:

(i) that it shall be up-to-date in compliance with all its financial obligations to the Borrower; (ii) that it shall have established that it will have adequate funds available to fulfill its obligations falling due within the following 12 months; (iii) that after deducting the payment of dividends, the current ratio shall not be less than 1.5.

(b) The Borrower shall present evidence to the satisfaction of the Trustee that it has provided the Executing Agency not later than March 31, 1979 and before the signature of this Contract, with an amount of not less than the equivalent of two million United States dollars (US\$2,000,000) out of the Borrower's contribution to the equity of the Executing Agency.

(c) Within 12 months of the date of this Contract the Borrower, through the Executing Agency, shall submit evidence to the Trustee's satisfaction that the Executing Agency has signed a management contract with a consultant firm, in accordance with a draft previously approved by the Trustee.

(d) No later than December 31, 1980, the Borrower, through the Executing Agency, shall present evidence to the Trustee's satisfaction that a programme of training in export marketing for the Guyana Timber Export Board (GTEB) staff has been agreed upon with an organisation acceptable to the Trustee.

(e) No later than March 1, 1981, the Borrower, through the Executing Agency, shall present to the Trustee a copy of the marketing agreement signed between GTEB and the Executing Agency, substantially in accordance with the terms of the Memorandum of Intent dated September 14, 1978.

(f) The Borrower undertakes to adopt all measures necessary to the satisfaction of the Trustee to complete construction of the access road to the Project area by December 31, 1979; and to assure that the progress of its construction will enable the use of the road by June 30, 1979, for the transport of heavy equipment needed for execution of the Project.

## CHAPTER VI

### Records, Inspections and Reports

Section 6.01. Records. The Borrower, through the Executing Agency, shall maintain appropriate records for registering, in accordance with the plan, catalogue, or code of accounts approved by the Trustee, the investments in the Project, both from the Loan proceeds and from the other funds to be provided for its complete execution. The records shall include sufficient detail to show the goods acquired and the services contracted for, making it possible to identify the investments realised in each category and the utilisation of the goods and services so acquired, and establishing a record of the progress and cost of the works.

Section 6.02. Inspections. (a) The Trustee may establish such inspection procedures as it deems necessary to ensure the satisfactory development of the Project.

(b) The Borrower and the Executing Agency shall permit such officials, engineers and experts as the Trustee shall send at any time to inspect the progress of the Project and the equipment and materials involved therein and to examine such records and documents as the Trustee shall deem pertinent. In the fulfillment of this mission such experts shall receive the complete cooperation of the respective authority. All costs relating to the transportation, salaries and other expenses of such experts shall be borne by the Trustee.

(c) In accordance with the provisions of Section 3.03, the sum of sixty thousand United States dollars (US\$60,000) chargeable to the Financing are hereby allocated to cover the Trustee's general expenses for inspection and supervision. Such sum shall be disbursed in quarterly and, as far as possible, equal installments, and shall be entered upon the books of the Trustee without the necessity of an application by the Borrower. The Trustee shall inform the Borrower of the disbursements made hereunder in a timely manner.

Section 6.03. Reports (a) The Borrower, through the Executing Agency, undertakes to present to the Trustee, to the latter's entire satisfaction and at the respective specified times, the following reports:

- (i) Within thirty (30) days after the end of each calendar semester, or within such other period as the parties shall agree, reports on the execution of the Project in accordance with standards which the Trustee shall have transmitted to the Executing Agency.
- (ii) Such other reports as the Trustee may reasonably request regarding the investment of the amounts lent, the use of goods acquired with such sums and the progress of the Project.
- (iii) Within one hundred and twenty (120) days following the close of each fiscal year of the Executing Agency, beginning with the fiscal year ending December 31, 1979, and while the obligations of the Borrower under the Contract continue, three copies of its financial statement as of the close of such fiscal year and complementary financial information relative to such statement.

(b) The statements and information required under the foregoing paragraph (a) (iii) of this Section shall be certified within the period set forth above, by the Office of the Auditor General of Guyana, in accordance with the standards required by the Trustee. Nevertheless, if the parties so agree or if the Office of the Auditor General is unable to perform the work in the manner indicated, the Executing Agency shall contract the services of a firm of independent chartered accountants acceptable to the Trustee, whose charges and expenses shall be paid by the Borrower or the Executing Agency.

## CHAPTER VII

### Miscellaneous Provisions

Section 7.01. Date of the Contract. For all purposes of this Contract the date thereof shall be that appearing in the opening sentence thereof.

Section 7.02. Entry into Force. The parties hereto agree that this Contract shall enter into force on the date referred to in the preceding Section for all legal effects relating thereto.

Section 7.03. Termination. Upon payment in full of the principal, interest and commitment fee, this Contract and all obligations hereunder shall terminate forthwith.

Section 7.04. Action in Certain Events. In the event that the provisions of Section 4.01(d) of this Contract become operative, all of the rights and obligations referring to the Trustee shall be transferred to the Settlor in their entirety and the Trustee shall be relieved of any responsibility herein.

Section 7.05. Validity. The rights and obligations established in this Contract are valid and **enforceable** in accordance with its terms regardless of the legislation of any given country, consequently, neither the Trustee nor the Borrower may allege the invalidity of any of its provisions.

Section 7.06. Encumbrances. If the Borrower should agree to create any specific encumbrance on all or part of its assets or revenues to secure an external debt, it shall at the same time create an encumbrance guaranteeing to the Trustee, equally and proportionately, the fulfillment of the pecuniary obligations arising from the Contract. The foregoing shall not apply to: (i) encumbrances created on purchased goods to assure the payment of the unpaid balance of the purchase price; and (ii) encumbrances created in banking operations to guarantee payment of debts with maturities of not more than one year. The term "assets or revenues" shall mean all types of assets or revenues which belong to or are received by the Borrower or any of its dependent agencies which are not autonomous entities with their own separate capital.

Section 7.07. Publicity. The Borrower shall agree to indicate suitably in publicity relating to the Project that it is being financed with the cooperation of the Inter-American Development Bank, in its capacity as Trustee of the Trust Fund created by the Venezuelan Investment Fund.

Section 7.08. Communications. Any notice, request, or communication from one party to another by virtue of the present Contract shall be made in writing and shall be considered given when delivered to the addressee at the respective address as given below:

To the Borrower:

(For the purposes of the service of the Loan)

Mail address:

Ministry of Finance  
Main Street  
Georgetown, Guyana

Cable Address:

MINFIN  
GEORGETOWN (Guyana)

(For the purposes of the execution of the Project)

Mail Address:

Demerara Woods Limited  
41 Brickdam and Boyle Place  
Georgetown, Guyana

Cable Address:

Demerara Woods Limited  
41 Brickdam and Boyle Place  
Georgetown, Guyana

To the Bank:

Mail Address:

Inter-American Development Bank  
808 17th Street, N.W.  
Washington, D.C., 20577

Cable Address:

INTAMBANC  
Washington, D.C.

CHAPTER VIII

Arbitration

Section 8.01. Arbitration. The parties to this Contract agree that any controversy arising out of the present Contract and not resolved by agreement between the parties, shall be unconditionally and irrevocably submitted to the procedure and ruling of the Arbitration Tribunal referred to in Annex A of this Contract, which shall be considered an integral part hereof.

IN WITNESS whereof, the Borrower and the Trustee, each acting through its authorised representative, have signed this Contract in Montego Bay, Jamaica, in three equally valid copies on the date above written.

GUYANA

INTER-AMERICAN DEVELOPMENT BANK

Sgd. (Franklin E. Hope)  
Franklin E. Hope  
Minister of Finance.

Sgd. (Antonio Ortiz Mena)  
Antonio Ortiz Mena  
Presidente.

ANNEX A  
Arbitration

Article One. Composition of the Tribunal. The Arbitration Tribunal shall be composed of three members, to be appointed in the following manner: one by the Trustee, another by the Borrower, and a third, hereinafter called the "Referee", by agreement between the parties, either directly or through their respective arbitrators. If the parties fail to agree on who shall be the Referee, he shall be appointed, at the request of either party, by the Secretary-General of the Organization of American States. If either of the parties fails to appoint an arbitrator, he shall be appointed by the Referee. If either of the appointed arbitrators or the Referee is unwilling or unable to act or to continue to act, his successor shall be appointed in the same manner as for the original appointment. The successor shall perform the same functions and shall have the same powers as his predecessor.

Article Two. Initiation of the Procedure. In order to submit the controversy to arbitration the claimant shall address to the other party a written communication setting forth the nature of the claim, the satisfaction or compensation sought, and the name of the arbitrator it has appointed. The party receiving such communication shall, within forty-five (45) days, notify the adverse party of the name of the person it has appointed as arbitrator. If, within thirty (30) days after delivery of such notification to the claimant, the parties have not agreed as to the person who is to act as Referee, either party may request the Secretary-General of the Organisation of American States to make the appointment.

Article Three. Convening of the Tribunal. The Arbitration Tribunal shall be convened in Washington, District of Columbia, on the date designated by the Referee and, once convened, the Tribunal itself shall decide when it shall meet.

Article Four. Procedure. (a) The Tribunal shall be competent only to hear the matter in controversy. It shall adopt its own procedures and may on its own initiative designate whatever experts it considers necessary. In any case, it shall give the parties the opportunity of making oral presentations.

(b) The Tribunal shall proceed ex aequo et bono, basing itself on the terms of the Contract, and shall issue an award even if either party should fail to appear or to present its case.

(c) The award, which shall be writing and shall be adopted with the concurrent vote of at least two of the arbitrators, shall be handed down within sixty (60) days from the date on which the Referee has been appointed, unless the Tribunal determines that, on account of special and unforeseen circumstances, such period should be extended. The parties shall be notified of the award by means of a communication signed by at least two members of the Tribunal. The parties agree that any award of the Tribunal shall be complied with within thirty (30) days from the date of notification and it shall be final and not be subject to any appeal in any national court or otherwise.

Article Five. Costs. Prior to the convening of the Tribunal, the parties shall agree on the remuneration of the arbitrators and any other person deemed by the parties to be required for the arbitration proceedings. If such agreement is not reached, the Tribunal itself may determine such compensation as is reasonable under the circumstances. Each party shall defray its own expenses in the arbitration proceedings. The costs of the Tribunal shall be divided and borne equally by both parties. Any doubt regarding the division of costs or the manner in which they are to be paid shall be determined, without appeal, by the Tribunal.

Article Six. Notification. All notifications relative to the arbitration proceeding or to the award shall be made in the manner provided in the present Contract. The parties expressly waive any other form of notification.

ANNEX B  
PROJECT DESCRIPTION

A. Purpose

The Upper Demerara Forestry Project is a specific project designed to increase exports of easily marketable wood products (sawn lumber, piles and poles) from well-known species and to gradually introduce lesser-known species on the international markets. It would also improve the supply of lumber for domestic consumption, particularly housing.

B. Project Description

The Project would utilise wood in an area of approximately 152,000 ha. located within the concession area that comprises some 222,000 ha. and is situated in the Upper Demerara-Essequibo Basin. The concession area is bounded on the north by an east-west line from Great Falls on the Demerara River to the Essequibo River; on the east by the Demerara and Mauri Rivers; on the south by the Kurupukari cattle trail; and on the west by the Essequibo River.

The Project would comprise the following major components: (a) logging and transport equipment for logging approximately 93,500 m<sup>3</sup> of round-wood per year; (b) a sawmill, including repair shops and transport fleet, with an annual output capacity of 41,100 m<sup>3</sup> of sawn lumber and 400,000 lineal feet of wallaba poles; (c) a power plant with an installed capacity of 6,000 kw based on waste wood fuel; (d) a township for about 1,500 people including 500 employees and their families, and (e) port facilities and a 13km. access road.

Implementation of the Project will be supported by consultant services for design engineering, construction supervision and operational management. The cost of the Project also includes a contribution to a Forest Management Research and Development Programme that would be developed by the Guyana Forestry Department, which would provide inputs for a long-term strategy for management of forest resources throughout the country.

C. Total Cost

The total cost of the Project is estimated at the equivalent of US\$31,800,000, distributed approximately as follows:

<u>TOTAL COST OF THE PROJECT</u>					
(in equivalent of US\$ thousands)					
<u>Investment Category</u>	<u>Local Currency</u>	<u>Foreign Exchange</u>	<u>1/</u>	<u>Total</u>	<u>%</u>
1. Engineering and Administration		2,707		2,707	8.5
1.1 Engineering design		675		675	
1.2 Supervision		532		532	
1.3 Administration		1,500		1,500	
2. Direct Costs	6,331	13,477		19,808	62.3
2.1 Logging and Transportation	44	2,003		2,047	6.4
2.1.1 Civil Works	44	11		55	
2.1.2 Equipment	-	1,748		1,748	
2.1.3 Support equipment	-	244		244	
2.2 Sawmill	740	3,729		4,469	14.1
2.2.1 Civil Works	581	397		978	
2.2.2 Equipment	64	3,253		3,317	
2.2.3 Infrastructure	95	79		174	

		<u>Local Currency</u>	<u>Foreign Exchange</u>	<u>1/</u>	<u>Total</u>	<u>%</u>
2.3	Power Plant	<u>19</u>	<u>4,617</u>		<u>4,636</u>	<u>14.6</u>
2.4	Port Facilities	2,242	1,650		3,892	12.2
	2.4.1 Road Construction	440	666		1,106	
	2.4.2 Wharf and Yard	1,522	607		2,129	
	2.4.3 Equipment	280	377		657	
2.5	Township	<u>3,286</u>	<u>1,478</u>		<u>4,764</u>	<u>15.0</u>
	2.5.1 Site Clearing	<u>42</u>	<u>71</u>		<u>53</u>	
	2.5.2 Building and Housing	2,611	542		3,153	
	2.5.3 Infrastructure	633	925		1,558	
3.	Concurrent Costs		200		200	0.6
3.1	Forest Research		200		200	
4.	Financial Costs		<u>2,300</u>		2,300	<u>7.2</u>
4.1	Interest During Construction	-	2,165		2,165	
4.2	Trustee Inspection and Supervision		60		60	
4.3	Trustee Commitment Fee		75		75	
5.	<u>Working Capital</u>	<u>700</u>			700	<u>2.2</u>
6.	Unallocated Costs	<u>1,499</u>	<u>4,586</u>		<u>6,085</u>	<u>19.2</u>
6.1	Physical Contingencies	599	1,978		2,577	
6.2	Price Escalation	900	<u>2,608</u>		<u>3,508</u>	
	<b>TOTAL</b>	<u>8,530</u>	<u>23,270</u>		<u>31,800</u>	<u>100.0</u>
	Percentages	26.8	73.2		100.0	

1/ All foreign exchange costs are direct.

D. Cost and Financing of the Sawmill Component

The resources of the financing of the Trustee will be used to partially finance the sawmill component of the Project in accordance with the following estimate:

Investment Category	(In equivalent of US\$ thousands)		Total	Government		Total	Grand Total
	Trustee Foreign Exchange	Local Currency		Foreign Exchange	Local Curr.		
1. Direct Costs	3,729		3,729			<u>740</u>	<u>4,469</u>
1.1 Civil Works	397		397			581	978
1.2 Equipment	3,253		3,253		64	64	3,317
1.3 Infrastructure	79		79		95	95	174
2. Financial Costs	<u>725</u>		<u>725</u>			<u>75</u>	800
2.1 Interest dur. Construc- tion	665		665				665
2.2 Inspection and Supervision	60		60				60
2.3 Commitment Fee				75		75	75
3. <u>Working Capital 2/.</u>			<u>475</u>			<u>225</u>	<u>700</u>



(In equivalent of US\$ thousands)

	Trustee		Government			Grand Total
	Foreign Exchange	Local Curr.	Foreign Exchange	Local Curr.	Total	
4. Unallocated Costs	1,071			160	160	1,231
4.1 Physical Contingencies	392		-	84	84	476
4.2 Price Escalation	679			76	76	755
TOTAL	5,525	475	75	1,125	1,200	7,200
Percentages	76.7	6.6	1.1	15.6	16.7	100.0

- 1/ All foreign exchange costs are direct.
- 2/ The working capital required for the entire Project has been included as working capital for the sawmill.

E. Financing Plan

The Project will be financed in accordance with the following estimate:

(In equivalent of US\$ thousands)

Source	Origin of Currencies		Use of Currencies		Total	%
	Foreign Exchange	Local Currency	Foreign Exchange	Local Currency		
Loan 24/VF-GY	6,000	-	5,525	475	6,000	18.9
Loan	10,000	-	10,000		10,000	31.4
EDF Loan	6,000		6,000		6,000	18.9
EDF Grant	1,000		1,000		1,000	3.1
Government	4,000	4,800	745	8,055	8,800	27.7
TOTAL	27,000	4,800	23,270	8,530	31,800	100.0
	84.9	15.1	73.2	26.8	100.0	

F. Bidding

When goods and services to be acquired are to be financed in whole or in part with funds from Loan 24/VF-GY, the bidding procedure and specific conditions shall permit unrestricted participation of bidders from countries designated by the Trustee. Consequently, no requirements precluding or restricting the participation of such bidders shall be established in such procedure or specific conditions.

ANNEX C

TENDER PROCEDURES

Upper Demerara Forestry Project

I. Applicability

- 1.01 The following procedures will be followed in the selection and awarding of contracts for goods or services and the construction of works whenever the value of any of such contracts is expected to exceed the equivalent of one hundred thousand United States dollars (US\$100,000).
- 1.02 Procurement for goods and services exclusively with local currency and other special conditions and procedures are set forth below in Section VI.
- 1.03 Procurement of goods and services to be financed out of the resources of the World Bank (IBRD) or of the European Development Fund (EDF) shall be governed by the procedures established by each of said entities.

II. Tenders Committee

- 2.01 The Tenders Committee established in Demerara Woods Limited (DWL) will implement the procedures described herein, oversee all procurement of goods and services for the Project and ensure the most efficient use of available resources. Committee decisions shall be determined by majority vote.

III. Prequalification of Contractors.

- 3.01 Contractors intending to submit tenders for construction shall be required to be prequalified following the procedures set forth herein. However, at the request of the Executing Agency, the Trustee may approve the waiver of the requirements of prequalification where the magnitude of the work to be undertaken would not warrant the utilisation of prequalification procedures.

A. Prequalification Notice

- 3.02 A prequalification notice shall be prepared and published in such a manner as to ensure the widest possible dissemination. Such Notice shall be published in two newspapers of general circulation in Guyana at least twice on nonconsecutive days, and sent to all embassies and consulates of all countries designated by the Trustee pursuant to the provisions of Section 5.03(b) of the Loan Contract, located either in Guyana or in a nearby country, when no embassy or consulate is physically located in Guyana, and directly to contractors believed to be interested in participating in such contracts; and for very large contracts, (generally in excess of the equivalent of US\$2,000,000) notices shall be published in at least two international technical magazines or trade publications.
- 3.03 Such prequalification notice, which shall have been approved by the Trustee prior to publication thereof, shall contain a brief description of the Project and of the type and magnitude of the construction proposed to be put to tender, approximate date or dates for the proposed invitations to tender, a statement that the Project is partially financed by the Venezuelan Trust Fund administered by the Trustee, that eligibility with respect to nationality of prospective tenderers and origin of goods and services will be determined pursuant to the rules applicable to the utilisation of such financing, the date by which applications for inclusion in the Register of Prequalified Contractors will be received, if applicable, and the address at which such applications are available.

B. Prequalification Application and Questionnaire

3.04

A prequalification application and questionnaire shall be prepared and, after approval by the Trustee, sent to every prospective tenderer requesting a copy. Such application and questionnaire shall, at a minimum, request the following information:

- (a) Details concerning prospective tenderer with regard to its technical background, economic situation, experience in type of construction proposed to be undertaken, equipment owned or available, list and qualifications of personnel and any other information which would enable a proper judgment to be made as to the technical qualifications of the prospective tenderer.
- (b) Type of legal organisation of the prospective tenderer (i.e., corporation, partnership, etc.) together with articles of incorporation or other appropriate establishment documents; whether affiliate or subsidiary of any other organisation, if a consortium, name of leading member and all other members of the consortium and date of association, together with a copy of the consortium agreement. A separate questionnaire shall be filed with respect to each member of the consortium.
- (c) Information sufficient to determine the eligibility of the prospective tenderer with respect to nationality pursuant to rules established by the Trustee for the utilisation of its resources. In this respect each application must contain a sworn affidavit certifying that:
  - (1) the prospective tenderer is incorporated or legally organised in a country considered eligible by the Trustee;
  - (2) the prospective tenderer has its principal place of business in a country considered eligible by the Trustee;
  - (3) (i) the prospective tenderer is more than 50% beneficially owned by an acceptable firm or firms of such country and/or other countries and/or by citizens or bona fide residents of such country or other countries; and (ii) the prospective tenderer is an integral part of the economy of the country where located;
  - (4) there is no arrangement whereby any substantial part of the profits or tangible benefits of the prospective tenderer will accrue or be paid to persons not citizens or bona fide residents of such countries; and
  - (5) at least 80% of all the persons who will perform services under the construction contract in question must be bona fide residents of such countries.

For the purposes of sub-paragraph (3) above, a list of principal stockholders of corporations or companies shall be furnished indicating the name and record address of such stockholders together with a certification by the corporate secretary that he has no information that would indicate that the beneficial owner is not the stockholder of record and that the address of record is the bona fide address of such stockholder. Similar information shall be furnished with respect to any business enterprise organised as a partnership or cooperative.

In cases of consortia, or a joint venture (an association of 2 or more enterprises) the above information and statement shall be submitted with respect to each member of the consortium.

NOTE: CONSORTIA WHICH INCLUDE ONE OR MORE MEMBERS WHO ARE NOT ELIGIBLE DUE TO NATIONALITY AS DETERMINED BY THE ABOVE RULES WILL BE DISQUALIFIED.

The application and questionnaire shall contain a statement that any question as to eligibility with respect to nationality will be referred to the Trustee whose decision shall be final in such matters.

- (d) Name and address of the bank or other financial entity proposed for the issuance of the required bid bond.

C. Closing Date for Receipt of Prequalification Questionnaire and Application

3.05 The notice referred to in Section 3.02 may indicate the closing date for inclusion in the Prequalification Register which date shall be at least 45 days from the date of last publication of the notice and at least 30 days prior to the date on which it is anticipated that invitations to tender would be sent to qualified contractors.

3.06 If, however, the notice referred to in Section 3.02 does not contain a closing date, then the intention to close the Register shall be published following the procedures set forth in Section 3.02 not less than 45 days prior to the closing date of the Register, indicating further the anticipated date on which invitations to tender would be sent to qualified contractors, which date shall be at least 30 days after the closing date of the Register.

D. Process of Prequalification.

- 3.07 (a) Questionnaires and applications shall be evaluated by the Tenders Committee taking into consideration the technical and other qualifications of the applicants including the eligibility requirements with respect to nationality. The Tenders Committee will prepare a list of contractors recommended as qualified and send such list together with necessary background information to the Trustee for its review. Any question as to the nationality of any prospective tenderer shall be brought to the attention of the Trustee.
- (b) Once the list of prospective qualified tenderers has been approved by the Trustee, all applicants shall be notified, whether or not included in the Register of Prequalified Contractors.
- (c) The names of prequalified contractors will be maintained on a Register and relevant information with respect to these contractors will also be recorded and the contractors graded according to the value of the contract amounts for which they are considered eligible to tender.
- (d) Applicants not considered qualified may request reconsideration of their application which shall be treated as a new application providing such application is received prior to the closing date of the Register.

IV. Procurement of Equipment, Material, Supplies and Other Goods

4.01 Prospective suppliers of equipment, material, supplies and other goods, normally would not require prequalification and only the procedures set forth in Parts V and VI hereof need be followed. However, whenever such procurement involves the installation or erection of equipment, etc., then prequalification shall be required following the procedures set forth in Part III hereof. DWL may request the approval of the Trustee to utilize prequalification for the supply of equipment, material, supplies or other goods, whenever it believes it would be in DWL's best interest to do so, or in exceptional cases, the Trustee may require utilization of prequalification procedures for the acquisition of such equipment, material or other goods.

V. Tenders

A. Notice to Prospective Tenders

- 5.01 (a) In those cases where prequalification was not required or utilized, DWL, after approval by the Trustee, shall publish a Notice of Invitation to Tender in the manner set forth in Section 3.02.
- (b) Whenever prequalification was utilized, the Notice of Invitation to Tender shall be sent, after approval by the Trustee directly to all firms on the Prequalification Register eligible to undertake the proposed construction or in the case of suppliers, to supply the equipment, etc. proposed to be acquired. In addition, the Notice of Invitation to Tender shall also be published in the manner set forth in Section 3.02. Only those who have prequalified may be invited to Tender.

5.02 The Notice of Invitation to Tender which may be sent together with the notice of qualification referred to in Section 3.07(b), shall contain sufficient information to enable either firms on the Prequalified Register or, in the case where no prequalification was utilized or required, prospective suppliers, to obtain the necessary tender documents including as a minimum: Address where tender documents are available, deposit or price charged for such documents, deadline for submission of tenders, abbreviated specifications including magnitude and type of construction proposed, brief description of equipment or other materials proposed to be procured, a statement that the Project is partially financed by the Venezuelan Trust Fund, administered by the Trustee, and that eligibility with respect to origin of goods and services will be determined pursuant to the rules for the utilization of such financing.

B. Deadline for Submission of Tenders

5.03 Deadline for submission of tenders shall be not less than 60 days from mailing of Notice of Invitation to Tender, or 60 days from date of last publication, if no prequalification was required or utilized.

C. Tender Documents

Tender documents, after approval by the Trustee, shall be sent to all prospective tenderers who have requested copies and have paid the deposit or fee, if any, except that such tender documents shall only be sent to those firms on the Prequalification Register where prequalification was required or utilized. Such tender documents shall contain sufficient information to enable prospective tenderers to submit a responsive tender and shall, as a minimum, contain the following:

- (a) Conditions of Tender, including required bid bonds and performance guarantees; currency to be utilised for payment, language in which tenders are to be written, date, time and place at which sealed tenders are to be opened; time period that tenders must remain valid, which should be not less than 120 days from opening of tenders; margin of preference for national suppliers, as set forth in Section 6.04.
- (b) Specifications including drawings, standards, description of work or equipment or other materials to be tendered, bill of quantities, etc.
- (c) Draft construction or supply contract proposed to be utilised which should contain full details as to the contractual arrangements proposed, including obligations of the contractor or supplier, definitions, provisions for bonds, indemnities and insurance, penalties and bonuses, percentage of payment to be retained, provision that no change in ownership of corporation or partnership or in members of consortium may be made during the life of the contract which would allow such ownership or change in membership to violate the rules for nationality eligibility, advances to be made, manner and currency of payment, settlement of disputes, termination and cancellation.
- (d) Tender Conference Schedule including time, date and place at which all tendering parties will be invited to discuss Project specifications and request clarification of tender documents. The minutes of such meeting shall be sent to all prequalified firms.
- (e) Other conditions including statements that all goods and services must originate in countries considered eligible by the Trustee and that Trustee rules will be utilised to determine origin of such goods and services; that the prequalification questionnaire, tender documents and other information and material utilised in connection with the tender or supplied by the tenderers constitute part of the contractual arrangements; a statement that no tenders may be altered or amended after having been opened; and that any clarification of the procedures or documents made either on the initiative of the Tenders Committee or in response to inquiries will be sent to all prospective tenderers who have requested tender documents; statement that Tenders Committee will accept tender most convenient taking all factors into consideration, which need not be the tender offering the lowest price and that the Tenders Committee may reject all bids if circumstances so require.
- (f) Where prequalification was waived pursuant to the provisions of Section 3.01 the tender documents shall require prospective tenderers for construction contracts to include substantially the information requested by Section 3.04.

D. Receipt and Evaluation of Tenders

5.05 Opening of Tenders

Tenders, together with evidence of surety, shall be submitted in sealed envelopes and shall be treated pursuant the following:

- (a) On the date and place set for opening of tenders, which place shall be open to all persons who have submitted tenders, the Chairman or other members of the Tenders Committee shall unlock the box and remove and open the tenders found therein.

- (b) In cases where prequalification was required or utilised, the Chairman shall announce the tenders received from contractors on the Register and all other tenders shall be rejected, or in the cases where prequalification was not required or utilised, the Chairman shall announce all tenders.
- (c) The Chairman and other members of the Committee shall initial the tenders and shall cause a note to be taken of the number of such tenders and of such further information as the Committee may require.

5.06 Evaluation of Tenders.

- (a) Tenders eligible for consideration shall be evaluated by the Tenders Committee with recommendations for the decision of the DWL.
- (b) The tender recommended for award together with a report analysing all tenders shall be submitted to the Trustee for review and concurrence.
- (c) Subsequent to the acceptance by the Trustee of the report and concurrence with the proposed award, the DWL shall prepare the necessary documentation for the authorisation of award to the successful tenderer.

VI. Other Conditions and Procedures

6.01 Procurement Exclusively with Local Funds

Whenever it is contemplated that contracts for construction or for the supply of equipment, material or other goods are to be tendered utilising the funds of the Borrower, that is, no foreign exchange from the Trustee Loan is to be utilised, the Borrower may restrict the competition to national contractors and the equipment, material and other goods to those of Guyanese origin.

Participation of Tenderers from Eligible Countries

Whenever the goods and services to be acquired are to be financed totally or partially with the foreign exchange resources of the Trustee Loan, the procedure and specific tender requirements shall permit free participation of bidders from countries designated by the Trustee, pursuant to the standards of eligibility governing the use of resources of the Venezuelan Trust Fund set forth in Section 5.03 of the Loan Contract. Consequently, such procedures and/or specific requirements shall not contain any condition which may impede or restrict the participation of such bidders.

6.03 Origin of Goods and Services.

Tenders will be presented with an indication of the origin of all goods. At the same time tenders should indicate the origin and costs of any technical services from outside Guyana.

Margins of Preference in the Procurement of Goods

A margin of preference may be applied in favour of tenders of goods produced in Guyana or, as the case may be, in countries which are members of the Caribbean Community (CARICOM), in accordance with the following rules:

- (a) National Margin of Preference
  - (i) Goods shall be considered to have originated in Guyana if the cost of the Guyanese materials, labor and services used to produce the item constitutes not less than 40% of the total cost of the item.

(ii) In comparing tenders, the offered price of Guyanese products shall be the delivered price of the product at the project site, with deductions for: (1) import duties paid on significant raw materials or manufactured components, and (2) local sales, consumption and value-added taxes incorporated in the cost of the item being offered. Proof of the amounts to be deducted under (1) and (2) above shall be provided by the bidder solely for price-comparison purposes.

(iii) Also for price-comparison purposes, the offered price of products of external origin shall be the CIF price of the product (excluding import duties, consular fees and port taxes), to which shall be added the sum of: (1) port handling charges, and (2) any local transportation from the port or frontier point of entry to the project site.

(iv) The following rules shall be observed in comparing offered prices for goods of local and external origin:

(1) the costs expressed in foreign currency shall be converted to their equivalent in dollars of Guyana at the rate of exchange agreed upon between the Borrower and the Bank in the Loan Contract.

(2) a margin of 15% or the actual customs duties, whichever is the lesser, shall be added to the offered price of foreign products, calculated as stipulated in (iii) above.

(b) Regional Margin of Preference

If the award was not made to a local supplier, a regional margin of preference may be applicable.

(i) Goods will be considered of regional origin if: (1) they were produced in a member country of CARICOM and satisfy the requirements established in the legal instruments governing that Community with respect to origin and other matters related to the programs for liberalization of regional trade, and (2) the local value added is not less than 40% of the total cost of the item.

(ii) To the CIF price of the product tendered the local costs referred in paragraph (a) (iii) (1) and (2) above (National Margin of Preference) shall be added.

(iii) The following rules shall be observed in comparing offered prices for goods originating in CARICOM countries and for goods originating in other eligible foreign countries:

(1) The prices expressed in foreign currency shall be converted to their equivalent in dollars of Guyana on the same basis of calculation established in paragraph (a) (iv) (1) above;

(2) A margin of 15% or of the difference between the duties applicable to the goods if they originate in CARICOM and the duties applicable to the same goods if they originate in eligible foreign countries that are not members of that Community, whichever is the lesser, shall be added to the offered price of goods originating in countries which are not members of CARICOM; and



- (3) If application of the above rules shows that the offer of the product originating in a member country of CARICOM is more convenient than the offer of the product originating in a country which is not a member of CARICOM, foreign exchange from the Loan may be used for the acquisition of the former.

6.05 Trustee Approval or Concurrence

- (a) All documents utilised for tendering purposes, including prequalification, invitation to tender, draft contracts, etc., shall be approved by the Trustee prior to their utilisation. Similarly, any modification or amendment to any such document made subsequent to Trustee approval shall be submitted to and approved by the Trustee prior to the distribution of such modification or amendment to prospective tenderers or other interested parties.
- (b) The proposed award of a contract shall be submitted to the Trustee for its concurrence prior to such award being notified to the tenderers.

6.07 Rejection of Tenders

The Tenders Committee may reject all tenders, after consultation with the Trustee, for any of the following reasons:

- (a) Where no tender meets the intent of the specifications or does not otherwise conform to the conditions of tender, or where there is evidence of collusion.
- (b) Where only one conforming tender is received, although the Tenders Committee may recommend that such tender, if in the best interest of DWL and with the concurrence of the Trustee, be awarded.
- (c) Where the lowest conforming tender substantially exceeds the official estimates.

6.08 New Invitation to Tender

- (a) The Tenders Committee shall issue a new invitation to tender whenever, for any of the reasons set forth in Section 6.06, all bids have been rejected or no conforming bids have been received. Such new invitation to tender may be limited to firms on the Prequalification Register in the Register in the cases where prequalification was required or utilised when it is believed that adequate responses would be received.
- (b) New invitations to tender shall be issued pursuant to the requirements of Sections 5.01 and 5.02 regardless of whether prequalification was not required or was utilised. In the event the Prequalification Register is reopened because it is deemed desirable to augment the number of eligible firms, the requirements of Sections 3.02 and 3.03 shall be followed. In the latter case, the invitation to tender shall be sent also to the firms then on the Prequalification Register. At the request of the Tenders Committee, the Trustee may approve shortening the time periods required in the respective sections for the submission of applications for prequalification and/or for submission of tenders.

6.09 Limitations on Tenders

The purpose of these regulations is to ensure the widest possible competition in the procurement of goods and services to enable the DWL to obtain the lowest possible price within the requirements of the rules relating to Trustee financing. Accordingly, the DWL shall ensure that tender conditions and other documents and requirements shall permit the free participation of prospective tenderers in or from all countries designated by the Trustee and shall impose no condition or procedures which would impede or improperly restrict the participation of such prospective tenderers.

6.10 Trustee Participation in Tender Procedures

Tender procedures are exclusively the responsibility of DWL and the participation of the Trustee is limited to review and concurrence wherever herein required. However, DWL notwithstanding any decision of the Trustee to withhold its approval or concurrence may proceed with the action proposed, in which case the Trustee may determine that financing under the Loan Contract will not be utilised and DWL would be required to utilise funds other than those derived from the Loan for the payment of the goods and/or services thereafter procured, in which case, the corresponding amount of the Trustee Loan would be cancelled.

6.11 Disqualification of Contractors and Suppliers

Tender documents, including the prequalification application, shall include a provision stating that if any fee, commission, percentage, brokerage, contingent fee, gratuity, gift, or other consideration is offered, promised or accepted with respect to a tender offer to facilitate obtaining a contract or any favourable action under the Project or for any other similar reason whatsoever connected with this Project, such activity shall be subject to the full force and effect of the Laws of Guyana, and all contractors and/or suppliers connected with such activity may be immediately disqualified from participating in the Project in any way whatsoever, without liability of any sort to DWL or the Trustee.