

PROJECT: IMPROVEMENT OF MILK PLANT, GEORGETOWN

FINANCING CONTRACT

between the

EUROPEAN ECONOMIC COMMUNITY

and the

COOPERATIVE REPUBLIC OF GUYANA

Georgetown, 24.1.1980

Brussels, 8.1.1980

The European Economic Community, hereinafter called "THE EEC" represented by the Commission of the European Communities in its capacity as manager of the European Development Fund, represented by the Member of the Commission responsible for Development Policy,

hereinafter called "THE COMMISSION"

of the one part, and

The Cooperative Republic of Guyana, represented by its Minister of Finance,

hereinafter called "THE BORROWER".

of the other part,

Whereas THE BORROWER intends to upgrade the milk plant in Georgetown, owned by the Livestock Development Company Ltd, by providing equipment for the plant, a scheme the specifications for which are set out in Annex A to this Contract, hereinafter called "THE PROJECT";

Whereas the total cost of THE PROJECT is estimated at 126 500 European units of account (hereinafter denoted by the initials EUA, and defined in Annex B);

Whereas, acting under the ACP/EEC Convention between the African, Caribbean and Pacific States and the EEC signed at Lome on 28th February 1975 (hereinafter called "THE CONVENTION") and the indicative programme of Community aid to the Cooperative Republic of Guyana, THE BORROWER has requested from THE EEC a Loan of 126 500 EUA;

Whereas THE EEC, assenting to this request, has signed on 10 July 1979 with THE BORROWER Financing Agreement No 2380/GUY/P;

Whereas THE COMMISSION has given a mandate from THE EEC to European Investment Bank, provisionally established at 2 Place de Metz, Luxembourg (Grand Duchy of Luxembourg), hereinafter called "THE BANK", which has accepted the said mandate, to take all necessary action to ensure repayment of the Loan which is the subject of this Contract;

Whereas under Article 67 of THE CONVENTION the ACP States gave certain undertakings concerning currency and exchange control;

Whereas, by the Decision No 6/79 of the ACP/EEC Council of Ministers of 23 March 1979, the ACP States agreed to apply certain fiscal and customs arrangements to contracts financed by the Community;

HAVE AGREED AS FOLLOWS:

The contractual relations between THE EEC and THE BORROWER shall be governed by the following GENERAL CONDITIONS and SPECIAL CONDITIONS together constituting this Contract.

PART 1: GENERAL CONDITIONS

applicable to Special Loans granted within the framework of the ACP-EEC Convention signed at Lome on 28 February 1975.

ARTICLE 1

Disbursement

1.01 Amount of Credit

THE COMMISSION shall open a credit on the European Development Fund for THE BORROWER, who hereby accepts the said credit, to be used exclusively to finance THE PROJECT.

The amount of the credit to be opened is laid down in the "SPECIAL CONDITIONS".

1.02 Manner of disbursement

The credit will be available to THE BORROWER as from the date of signature hereof.

Every request for funds, accompanied by the supporting documents required under Article 1.04 of this Contract, shall be made to THE COMMISSION not less than thirty days before the payment date stipulated by THE BORROWER and shall specify the account or accounts to which payment should be made.

The minimum amount of each disbursement and the maximum number of disbursements are laid down in the "SPECIAL CONDITIONS".

1.03 Currency arrangements

Each disbursement shall be made by THE COMMISSION, who shall inform THE BANK, in the Member State currency or currencies selected by THE COMMISSION after consultation with THE BORROWER. Sums disbursed shall be charged against the credit which has been made available at the conversion rates prevailing between the EUA and the disbursement currency or currencies on the day preceding disbursement.

1.04 Conditions of disbursement

The disbursements are subject to the conditions laid down in the "SPECIAL CONDITIONS".

1.05 Annulment of the credit

In the event of a reduction of the total cost of THE PROJECT below the amount of the credit opened under Article 1 hereof, THE COMMISSION shall have the right to reduce the amount of the credit to the actual cost of THE PROJECT.

THE BORROWER, shall have the right, at any time, to annul all or part of the credit which has not yet been paid out.

The date from which THE COMMISSION shall have the right to annul all or part of the credit which has not yet been paid out is laid down in the "SPECIAL CONDITIONS".

1.06 Withdrawal of the opening of credit

In the event of the existence of any one of the situations described in Article 10 of this Contract, THE COMMISSION shall at all times have the right to cancel, with immediate effect, all or part of the credit which has not yet been paid out.

Any undisbursed balance of credit shall be automatically withdrawn as soon as the Loan is called in under Article 10 of this Contract.

1.07 Suspension of disbursement

Without prejudice of the provisions of Article 1.06 or Article 10 THE COMMISSION shall have the right at any time to suspend disbursement of the credit in the event of the existence of any one of the situations described in Article 10 of these General Conditions. THE COMMISSION shall have the right to continue to suspend disbursement for as long as it considers that the circumstance giving rise to the right to suspend continues to prevail.

ARTICLE 2

The Loan

2.01 Amount of the Loan

The amount of the Loan shall be the equivalent in EUA of all the amounts paid out in the currency or currencies used by THE COMMISSION for the several disbursements as notified to THE BORROWER at the time of the disbursement, each disbursement being converted into EUA at the rate of conversion for such disbursement in accordance to Article 1.03.

2.02 Currency arrangements for repayment of the Loan and payment of interest

The amounts to be repaid and the interest due shall be expressed in EUA. Repayment of the principal, interest payments and penalties shall be made in the Member State currency or currencies selected by THE BORROWER. The rates to be used for converting the EUA into Member States currencies shall be those which obtained on the tenth day preceding payment.

ARTICLE 3

Interest

3.01 Nominal 1% (one per cent) per annum interest shall be payable by THE BORROWER to THE EEC in respect of amounts paid out and not yet repaid. Interest payments shall be made every half-year in arrears on the dates set in Article 5.03 of this Contract.

3.02 Without prejudice to Article 10, THE BORROWER shall, in the event of any delay in the payment of any sums due under this Contract, automatically be subject, in respect of the delayed payment, to a penalty equivalent to interest under Article 3.01 increased by 2.5% per annum. Such penalty shall, in the case of delay in the repayment of any amount of principal, be payable instead of and not in addition to the interest payable under Article 3.01.

ARTICLE 4

Repayment

4.01 Normal repayment

THE BORROWER shall repay the principal of the loan in 60 half-yearly payments, according to the repayment schedule annexed (Annex C) to this Contract.

The date at which the first repayment falls due is laid down in the "SPECIAL CONDITIONS".

4.02 Optional repayment in advance

THE BORROWER shall at all times have the right to effect early repayment of all or part of the loan.

Amounts repaid in advance shall be deducted from those scheduled to constitute the last repayments.

ARTICLE 5

Payments

5.01 Place of payment

THE BORROWER shall pay all the sums owed by him under this Contract into the account or accounts indicated by THE BANK, which indication shall be given not less than fifteen days before each payment date.

This period shall not apply in the circumstances provided for in Article 10 of this Contract.

5.02 Calculation of payments due in respect of parts of a year

Interest payable by THE BORROWER to THE EEC under this Contract in respect of parts of a year shall be calculated on the basis of a 360-day year and a 30-day month.

5.03 Payment dates

The dates at which the half-yearly payments due under this Contract shall be made are laid down in the "SPECIAL CONDITIONS".

The other sums due under this Contract shall be payable to THE BANK as soon as payment is requested from THE BORROWER by THE COMMISSION or THE BANK.

ARTICLE 6

Specific undertakings

6.01 Use of the proceeds of the loan

THE BORROWER shall use the proceeds of the loan solely for the purpose of realizing THE PROJECT.

6.02 Execution of THE PROJECT

THE BORROWER undertakes to carry out THE PROJECT in full accordance with the provisions of Annex A.

The date by which THE BORROWER undertakes to complete THE PROJECT is laid down in the "SPECIAL CONDITIONS".

Excess PROJECT costs

In the event of THE PROJECT costs exceeding those provided for, THE BORROWER shall assume responsibility for financing the additional costs in a manner such that THE PROJECT is completed in accordance with the provisions of Annex A. The plan for the coverage of such additional expenditure shall be submitted for approval to THE COMMISSION without delay.

6.04 Contracts and orders for work, materials and services

Contracts for works and the supply of materials and services, needed to carry out THE PROJECT shall be awarded in accordance with the procedures normally followed for public contracts financed by THE EEC in countries receiving aid from the European Development Fund.

Maintenance

For the duration of the Loan THE BORROWER undertakes to ensure that all the works carried out for THE PROJECT shall be so maintained as to ensure that they keep their normal working capabilities.

ARTICLE 7

Security

Creation of security

In the event that for an external debt THE BORROWER grants or provides in favour of third parties any security or preferential treatment of any kind, it shall be required, at the request of THE BANK, to create or provide in favour of THE EEC equivalent security or preferential rights.

The foregoing undertaking shall not apply to:

any Lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property;

any Lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

ARTICLE 8

Information and inspection

Information concerning THE PROJECT.

THE BORROWER:

- (a) shall submit forthwith for the approval of THE COMMISSION any major alterations to the general plans and work completion schedules for THE PROJECT as communicated prior to the conclusion of this Contract;
- (b) shall make available to THE COMMISSION all such documents and information as the latter may reasonably request concerning the financing and execution of THE PROJECT;
- (c) shall, in general, inform THE COMMISSION of any circumstance or occurrence which could substantially affect or alter the execution or use of THE PROJECT.

8.02

Information concerning THE BORROWER

THE BORROWER:

- (a) shall, in the case of an external debt, if it intends to grant or provide to third parties any security or preferential rights, inform THE COMMISSION and THE BANK in good time;
- (b) shall in general inform THE COMMISSION and THE BANK of any circumstances or occurrence which could jeopardize the performance of obligations incumbent on THE BORROWER under this Contract.

Inspection

THE BORROWER shall permit persons designated by THE COMMISSION to inspect the sites, installations and works comprising THE PROJECT and to carry out whatever checks relating to THE PROJECT they consider desirable; it shall ensure that everything is done to facilitate their task.

ARTICLE 9

Charges and expenses

Fiscal charges

THE BORROWER shall pay all fiscal charges including stamp duty, registration fees and other taxes of whatever nature which may become due by reason of the execution and implementation of this Contract and documents relating thereto together with all national or local taxes or charges on interest, commission, repayment of principal, or other payments receivable by THE EEC from THE BORROWER under the terms of this Contract.

9.02

Other charges

THE BORROWER shall also bear the professional fees and the exchange and bank charges arising in connection with the conclusion and execution of this Contract and of all the documents attaching to it.

ARTICLE 10

Compulsory early repayment

- 10.01 The loan or any part thereof shall become repayable upon demand being made therefor by THE COMMISSION, following the occurrence of any of the following events :
- (a) failure of THE BORROWER to repay any part of the loan or to pay interest thereon or to make any other payment to THE EEC as herein provided on the date when the same falls due for payment;
 - (b) failure by THE BORROWER to comply with any obligation, other than a payment obligation, imposed upon it by the terms of this Contract within the time reasonably specified in a notice served by THE COMMISSION on THE BORROWER requiring compliance;
 - (c) material misstatement of fact in any information given on behalf of THE BORROWER in connection with the conclusion or implementation of this Contract;
 - (d) if any fact or circumstance referred to in the Recitals shall have ceased to exist or shall have changed with the effect of prejudicing the interest of THE EEC or the operation of THE PROJECT.
- 10.02 The provisions of Article 10.01 shall not be construed as limiting any other right which is conferred by law on THE COMMISSION to require early repayment of the loan.
- 10.03 No failure by THE COMMISSION to exercise any of its rights under this Article shall be construed as a waiver of such right.

ARTICLE 11

Law of the Contract

11.01 Law applicable

The legal relations between the parties to this Contract, its formation and its validity shall be submitted exclusively to the law of the country in which, at the date hereof, the offices of the Directorate General for Development of the Commission of the European Communities are situated.

11.02 Place of performance

The place of performance of this Contract shall be the city in which, at the date of signature hereof, the offices of the Directorate General for Development of the Commission of the European Communities are situated.

11.03 Jurisdiction

THE COMMISSION and THE BORROWER hereby confer jurisdiction on the Court of Justice of the European Communities, before which disputes relating to this Contract shall be brought.

ARTICLE 12

Final provisions

12.01 Addresses

The terms of this paragraph are laid down in the "SPECIAL CONDITIONS".

12.02

Form of notices

Notices and communications for which time limits are laid down in this Contract or which themselves impose time limits on their recipient shall be sent by registered letter or telegram with acknowledgement of delivery or by telex; for the purpose of determining such time limits in the case of notices sent by registered letter or telegram, the date of delivery shall be treated as being the date of any entry on the acknowledgement of delivery of the letter or telegram to the recipient.

12.03

Annexes

The Preamble, Annex A (Specifications), Annex B (Definition of the EJA) and Annex C (Repayment Schedule) shall form integral parts of this Contract.

The other annexes to this Contract and the details about its execution are laid down in the "SPECIAL CONDITIONS".

PART 2: SPECIAL CONDITIONS

for the financing to be provided to the Cooperative Republic of Guyana for the purpose of financing THE PROJECT "IMPROVEMENT OF MILK PLANT, GEORGETOWN".

The SPECIAL CONDITIONS complete the GENERAL CONDITIONS and, in case of conflict, prevail over the GENERAL CONDITIONS.

The numbering of the SPECIAL CONDITIONS follows that of the GENERAL CONDITIONS.

ARTICLE 1

1.01 Amount of Loan - 2nd subparagraph

The credit opened under this Contract shall amount to the equivalent of 126 500 (one hundred and twenty six thousand five hundred) EUA.

1.02 Manner of disbursement - 3rd subparagraph

No request may be made for the disbursement of a sum equivalent to less than 40,000 EUA. The total number of disbursements made to THE BORROWER shall not exceed 4.

1.04 Conditions of disbursement

The disbursements provided for in paragraph 02 of this article shall be subject to the condition that, thirty days before the disbursement in question :

- (a) THE BORROWER shall have submitted to THE COMMISSION a request for funds previously endorsed by the Commission Delegate in the Cooperative Republic of Guyana;
- (b) THE BORROWER shall have submitted to THE COMMISSION documentary evidence, satisfactory to the latter and relating to such request, that payment of an amount equivalent at least to the amount requested is due and payable to suppliers of equipment for THE PROJECT;
- (c) and, further, from the second request on, that the previous payments have been made in accordance with the terms of the Contracts with suppliers of such equipment.

If any of the documents presented by THE BORROWER in support of its request does not satisfy THE COMMISSION, the corresponding disbursement may be reduced without prejudice to the third subparagraph of paragraph 02 of this article

1.05 Cancellation of the credit - 3rd subparagraph

THE COMMISSION, as from 31 December 1981, shall have the right to cancel all or part of the credit which has not yet been paid out.

ARTICLE 4

Normal repayment - 2nd subparagraph

The first repayment falls due on 1st June 1990.

ARTICLE 5

5.03 Payment dates - 1st subparagraph

The half-yearly payments due under this Contract shall be made on 1 December and 1 June of each year.

ARTICLE 6

6.02 Execution of THE PROJECT - 2nd subparagraph

THE BORROWER undertakes to complete THE PROJECT by 31st December, 1980.

6.04 Contracts for works, materials and supplies

The provisions of this article are deleted and replaced by the following:

Contracting Authority will be Livestock Development Company Limited, hereinafter called "LIDCO".

THE BORROWER shall ensure that LIDCO, before going to tender, provides to THE COMMISSION a detailed report on execution of the building overhaul and the general preparations necessary for the proper installation and operation of the equipment to be provided under THE PROJECT.

THE BORROWER shall ensure that LIDCO awards contracts and places orders for the equipment needed to carry out THE PROJECT in accordance with the procedures normally followed for public contracts financed by THE EEC in countries receiving aid from the European Development Fund.

6.06 Operation of the Milk Plant

THE BORROWER undertakes to ensure adequate supplies of water and power for the operation of the Milk Plant, the subject of THE PROJECT.

ARTICLE 12

12.01 Addresses

Notices and communications from one party to another in respect of this Contract shall, in order to be valid, be addressed as follows:

for THE COMMISSION: Directorate-General for Development
Berlaymont
200 rue de La Loi
1049 Brussels
Belgium

for THE BORROWER: The Ministry of Finance

Georgetown,
GUYANA.

Telegraphic address: MINFIN GUYANA

or, in the event of a dispute:

Embassy of the Cooperative Republic of Guyana
Av. des Arts 21-22
1040 Brussels
Belgium

which is THE BORROWER'S address for service.

Any change of the above address shall be valid only when it has been notified to the other party provided that THE BORROWER'S address for service may only be changed to another address in THE EEC.

This Contract is drawn up in three copies each of these texts being equally valid.

In witness whereof the undersigned parties, acting through their duly authorised representatives, have set their signatures thereto.

Done at Brussels, 8.1.1980 Done at Georgetown, 24.1.1980

THE EUROPEAN ECONOMIC COMMUNITY THE COOPERATIVE REPUBLIC OF GUYANA

(Sgd) C. Cheysson

(Sgd.) F.E. Hope.

SPECIFICATIONS

I. DEFINITION OF THE PROJECT

The purpose of THE PROJECT is to increase the availability of pasteurised milk in the coastal region of Guyana by upgrading the milk plant in Georgetown owned by the Livestock Development Company Limited (LIDCO). THE PROJECT is to provide equipment for the plant, primarily for reconstitution of 7,000 litres per day of milk from milk powder provided for by THE EEC and by the World Food Programme and secondly for replacement of certain equipment in the plant so as to re-establish its initial capacity of 13 000 litres per day of pasteurised fresh milk.

THE PROJECT will be implemented and managed by LIDCO.

II. THE COST OF THE PROJECT IS ESTIMATED AS FOLLOWS:

	<u>'000 EUA</u>
General milk processing	15.8
Packaging	26.7
Water supply tank	9.2
Refrigeration plant	29.4
Installation (to be carried out by the suppliers)	20.0
	<hr/>
Subtotal	101.1
Physical and price contingencies	25.4
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TOTAL	<u>126.5</u>

ANNEX B

Definition of the European unit of account

By virtue of the Decision of the Council of the European Communities of 21 April 1975 published in Official Journal of the European Communities No L 104 of 24 April 1975, the European unit of account is defined as being the sum of the following amounts in the currencies of the Member States of the European Economic Community:

German mark:	0.828
Pound sterling:	0.0685
French franc:	1.15
Italian Lira:	109.—
Dutch guilder:	0.286
Belgian franc:	3.66
Luxembourg franc:	0.14
Danish Krone:	0.217
Irish pound:	0.00759

The value of the European unit of account in any given currency is equal to the sum of the equivalent in that currency of the amounts of currency referred to in the preceding paragraph. It is calculated by the Commission of the European Communities using daily market exchange rates.

The daily values of the unit of account in the various national currencies is made available every day and is published periodically in the Official Journal of the European Communities.

ANNEX CAMORTISATION TABLE

Due Date of instalment	Amounts to be repaid expressed as percentage of the Loan
1. 1 May 1990	1,43
2. 1 November 1990	1,44
3. 1 May 1991	1,45
4. 1 November 1991	1,45
5. 1 May 1992	1,46
6. 1 November 1992	1,47
7. 1 May 1993	1,48
8. 1 November 1993	1,48
9. 1 May 1994	1,49
10. 1 November 1994	1,50
11. 1 May 1995	1,51
12. 1 November 1995	1,51
13. 1 May 1996	1,52
14. 1 November 1996	1,53
15. 1 May 1997	1,54
16. 1 November 1997	1,54
17. 1 May 1998	1,55
18. 1 November 1998	1,56
19. 1 May 1999	1,57
20. 1 November 1999	1,58
21. 1 May 2000	1,58
22. 1 November 2000	1,59
23. 1 May 2001	1,60
24. 1 November 2001	1,61
25. 1 May 2002	1,62
26. 1 November 2002	1,62
27. 1 May 2003	1,63
28. 1 November 2003	1,64
29. 1 May 2004	1,65
30. 1 November 2004	1,66
31. 1 May 2005	1,66

Due date of instalment	Amounts to be repaid expressed as percentage of the Loan
32. 1 November 2005	1,67
33. 1 May 2006	1,68
34. 1 November 2006	1,69
35. 1 May 2007	1,70
36. 1 November 2007	1,71
37. 1 May 2008	1,72
38. 1 November 2008	1,72
39. 1 May 2009	1,73
40. 1 November 2009	1,74
41. 1 May 2010	1,75
42. 1 November 2010	1,76
43. 1 May 2011	1,77
44. 1 November 2011	1,78
45. 1 May 2012	1,78
46. 1 November 2012	1,79
47. 1 May 2013	1,80
48. 1 November 2013	1,81
49. 1 May 2014	1,82
50. 1 November 2014	1,83
51. 1 May 2015	1,84
52. 1 November 2015	1,85
53. 1 May 2016	1,86
54. 1 November 2016	1,87
55. 1 May 2017	1,88
56. 1 November 2017	1,89
57. 1 May 2018	1,90
58. 1 November 2018	1,90
59. 1 May 2019	1,91
60. 1 November 2019	1,93
	100,00