

Loan No. 7/OR-GU

LOAN AGREEMENT

(69-KV Electricity Transmission Line)

BETWEEN

CARIBBEAN DEVELOPMENT BANK

AND

GUYANA

AND

GUYANA ELECTRICITY CORPORATION

Dated: November 5, 1979.

LOAN AGREEMENT

AGREEMENT dated November 5, 1979, between the Caribbean Development Bank (hereinafter called the Bank) of the First Part, Guyana (hereinafter called the Borrower) of the Second Part, and the Guyana Electricity Corporation established in Guyana under the Electricity Act (Cap. 56:01) of Guyana (hereinafter called the Executing Agency) of the Third Part.

ARTICLE I

Definitions

Section 1.01 Wherever used in this Loan Agreement, unless the context otherwise requires, the following terms have the following meanings:-

- (i) "Guyana dollars" or "G\$" means any currency which is for the time being legal tender of the Borrower.
- (ii) "Project" means the erection by the Executing Agency of 110 miles of 69 KV single circuit transmission line connecting its electricity generating stations at Sophia and No. 53 Corentyne in accordance with the programme outlined in Schedule 1 to this Loan Agreement, as amended from time to time by agreement between the Bank, the Borrower and the Executing Agency.

ARTICLE II

The Loan and its Purpose

Section 2.01 Amount of Loan. Subject to the terms and conditions set forth and referred to in this Loan Agreement, the Bank agrees to lend to the Borrower from the Ordinary Capital Resources of the Bank an amount not exceeding the equivalent of six million, nine hundred thousand United States dollars (US\$6,900,000).

Section 2.02 Loan Account. The Bank shall open a Loan Account in its books in the name of the Borrower and shall credit to such account the amount of the Loan. The amount of the Loan may be withdrawn from the Loan Account as provided in, and subject to the rights of cancellation and suspension set forth in, this Loan Agreement.

Section 2.03 Purpose. The purpose for which the Loan is granted is to provide the Borrower with funds for re-lending to the Executing Agency to assist the Executing Agency in financing the Project.

ARTICLE III

Amortisation, Interest, Commission and
Commitment Charge.

Section 3.01 Amortisation and Interest. The Borrower shall repay the amount of the Loan withdrawn from the Loan Account in thirty (30) equal or approximately equal and consecutive semi-annual aggregate payments of principal and interest thereon at the rate of eight per cent (8%) per annum on January 15 and July 15 in each year (hereinafter called the Due Dates) the first payment being due and payable on the first Due Date after the expiry of five (5) years from the date of the first disbursement of the Loan or on such later date as may be specified in writing by the Bank. The Bank shall provide the Borrower with an amortisation schedule before the date for the first payment under this Section.

Section 3.02 Interest before Commencement of Amortisation. Before the commencement of amortisation in accordance with Section 3.01 of this Loan Agreement the Borrower shall pay interest at the rate of eight per cent (8%) per annum on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time. Such interest shall accrue from the respective dates on which amounts shall be so withdrawn and shall be payable semi-annually on the Due Dates, the first payment being due and payable on the first Due Date after the date of the first disbursement hereunder.

Section 3.03 Commission. The Borrower shall pay to the Bank a commission at the rate of one percent (1%) per annum on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time. Such commission shall accrue from the respective dates on which amounts shall be so withdrawn and shall be payable semi-annually on the Due Dates, the first payment being due and payable on the first Due Date after the date of first disbursement hereunder.

Section 3.04 Commitment Charge. The Borrower shall pay to the Bank a commitment charge at the rate of three quarters of one percent ($\frac{3}{4}\%$) per annum on the unwithdrawn amount of the Loan from time to time. Such charge shall accrue from the sixtieth day after the date of this Loan Agreement to the respective dates on which amounts are withdrawn by the Executing Agency or are cancelled and shall be payable semi-annually on the Due Dates, the first payment being due and payable on the first Due Date after the date on which the charge shall accrue.

Section 3.05 Computation of Interest and Other Charges. on the basis of a Interest and all other charges shall be computed 365-day year.

Section 3.06 Advance Payments. The Borrower shall have the right, upon payment of all accrued interest and other charges and upon not less than 45 days' notice to the Bank, to repay in advance of maturity any portion of the Loan outstanding. Advance payments, unless otherwise agreed, shall be applied to the outstanding instalments of principal in the inverse order of their maturity and the amortisation schedule provided under Section 3.01 of this Loan Agreement shall be amended accordingly.

Section 3.07 Place of Payment. The principal of, and interest and other charges on, the Loan shall be paid at such places as the Bank may request.

Section 3.08 Overdue Payments. In case the Borrower fails to pay the principal, interest and/or other charges due and payable under this Loan Agreement, the Borrower shall pay to the Bank interest on such overdue principal, interest and/or other charges at the rate of nine per cent (9%) per annum for a period from the day immediately succeeding the Due Date to the day of actual payment thereof, both dates inclusive.

Section 3.09 Payments by Executing Agency on behalf of Borrower.

(a) Without in any way derogating from the obligations of the Borrower under Sections 3.01, 3.02, 3.03, 3.04 and 3.08 of this Loan Agreement, all payments of principal interest and other charges required to be made to the Bank by the Borrower under those sections shall be made to the Bank by the Executing Agency on behalf of the Borrower out of monies received by the Executing Agency from the Supply of electricity and the provision of associated services.

(b) If the Executing Agency fails to make any payment of principal interest or other charges required by paragraph (a) of this Section or fails to make any such payment in full the Borrower shall promptly make the required payment or provide the Executing Agency with such additional funds as are needed to make such payments.

ARTICLE IV

Withdrawal of Proceeds of Loan

Section 4.01 Withdrawal and Application of Proceeds. (a) Subject to the provisions of this Loan Agreement the Executing Agency is entitled on behalf of the Borrower to withdraw from the Loan Account amounts required for the purpose of the Project provided, however, that -

- (i) except with the agreement of the Bank withdrawals may not be made on the account of expenditures incurred by the Executing Agency in respect of the components of the Project to be financed by the Executing Agency in accordance with the Programme set out in Schedule 1 to this Loan Agreement as amended from time to time;

(ii) except with the agreement of the Bank withdrawals shall not at any time exceed sixty-eight per cent (68%) of the expenditures incurred by the Executing Agency;

(iii) withdrawals not exceeding in the aggregate fifty-seven thousand five hundred United States dollars (US\$57,500) may be made on account of expenditures incurred by the Executing Agency for pre-contract works carried out by Shawinigan Engineering Company Limited as from July 1978.

(b) The proceeds of the Loan so withdrawn shall be applied by the Executing Agency for the purpose of the Project in accordance with the provisions of this Loan Agreement.

Section 4.02 Special Commitments. At the request of the Executing Agency and upon such terms and conditions as shall be agreed upon between the Bank and the Executing Agency, the Bank may enter into special commitments in writing to pay amounts to the Executing Agency or others in respect of the cost of goods and services to be financed out of the proceeds of the Loan notwithstanding any subsequent suspension or cancellation.

Section 4.03 Final Period for Disbursement. The sum referred to in Section 3.01 of this Loan Agreement may be disbursed up to December 31, 1981, or such later date as shall be specified in writing by the Bank (hereinafter called the Closing Date).

Section 4.04 Procurement. (a) Except as provided in Section 7.02 (c) (i) and (iii) of this Loan Agreement or as the Bank may otherwise agree, the goods and services to be financed out of the proceeds of the Loan shall be procured in accordance with the procedures outlined in "Guidelines for Procurement" and "Guidelines for Choice of Consultants" published by the Bank in September 1976 as the same may from time to time be amended by the Bank.

(b) The Borrower and the Executing Agency each hereby acknowledges that it has been furnished with a copy of the publications referred to in paragraph (a) of this Section.

Section 4.05 Goods and Services to be used exclusively in Carrying Out the Project. Except as the Bank may otherwise agree, the Executing Agency shall cause all goods and services financed out of the proceeds of the Loan to be used exclusively in carrying out the Project.

Section 4.06 Requests for Withdrawals or for Special Commitment. When the Executing Agency desires to withdraw any amount from the Loan Account or to request the Bank to enter into special commitment pursuant to Section 4.02, the Executing Agency shall deliver to the Bank a written application in such form and containing such statements and agreements as the Bank may reasonably request. Applications for withdrawal with the necessary documentation as hereinafter in this Article provided shall be made promptly in relation to expenditure for the Project.

Section 4.07 Authorisation of Requests for Withdrawals. The Executing Agency shall furnish to the Bank evidence of the authority of the person or persons authorised to sign applications for withdrawal and the authenticated specimen signature of any such person or persons.

Section 4.08 Documentation of Requests for Withdrawals. The Executing Agency shall furnish to the Bank such documents and other evidence in support of the application as the Bank shall reasonably request, whether before or after the Bank shall have permitted any withdrawal requested in the application.

Section 4.09 Applications and Documents to Satisfy Bank. Each application and the accompanying documents and other evidence must be sufficient in form and substance to satisfy the Bank that the Executing Agency is entitled on behalf of the Borrower to withdraw from the Loan Account the amount applied for and that the amount to be withdrawn from the Loan Account has been or will be used only for the purposes specified in this Loan Agreement.

Section 4.10 Payments to Executing Agency. Payment by the Bank to the Executing Agency of amounts which the Executing Agency is entitled on behalf of the Borrower to withdraw from the Loan Account shall be made to or on the order of the Executing Agency.

Section 4.11 Countries Eligible for Procurement. Except as the Bank may otherwise agree, any goods and services required for carrying out the Project shall, if they are to be financed out of the proceeds of the Loan, be procured only in the States and Territories mentioned or referred to in Schedule 2 to this Loan Agreement.

Section 4.12 Interest During Construction. The Bank shall be entitled to withdraw from the Loan Account and pay to itself interest and/or other charges due and payable under this Loan Agreement during the period of the erection of the transmission line without the necessity of an application for withdrawal by the Executing Agency.

ARTICLE V

Currency Provisions

Section 5.01 Currencies in which Withdrawals may be made. Except as the Bank and the Borrower otherwise agree, withdrawals by the Executing Agency from the Loan Account shall be made in the respective currencies in which the expenditures to be financed out of the proceeds of the Loan have been paid or are payable or in such other currency or currencies available to the Bank in its Ordinary Capital Resources as the Bank may reasonably determine.

Section 5.02 Currencies in which Principal is Payable. (a) The Loan

shall be repayable in the several currencies withdrawn from the Loan Account and the amount payable in each currency shall be the amount withdrawn in that currency provided that if withdrawals shall be made in any currency which the Bank shall have purchased with another currency for the purpose of such withdrawal the portion of the Loan so withdrawn shall be payable in such other currency and the amount so repayable shall be the amount paid by the Bank on such purchase.

(b) The portion of the Loan to be repaid in a particular currency shall be repayable in such instalments as the Bank shall from time to time specify provided that the amount of the Loan to be repaid on each Due Date shall remain as set forth in the amortisation schedule to be provided under Section 3.01 of this Loan Agreement.

Section 5.03 Currencies in which Commitment Charge, Commission and Interest are Payable. The Commitment Charge shall be payable in United States dollars and Interest and Commission shall be payable in the currency or currencies in which the principal of such portion of the Loan is repayable.

Section 5.04 Purchase of Currencies. The Bank will, at the request of the Borrower or the Executing Agency and on such terms and conditions as the Bank shall determine, purchase any currency needed by the Borrower or the Executing Agency for payment of principal, interest, commission, commitment charge and other charges required under this Loan Agreement upon payment by the Borrower or the Executing Agency of sufficient funds therefor in such currency or currencies to be specified by the Bank from time to time. In purchasing the currency or currencies required, the Bank shall be acting as agent of the Borrower or the Executing Agency, as the case may be and the Borrower or the Executing Agency, as the case may be shall be deemed to have any payment required under this Loan Agreement only when and to the extent that the Bank has received such payment in the currency or currencies required.

Section 5.05 Valuation of Currencies. Whenever it shall be necessary for the purposes of this Loan Agreement to determine the value of one currency in terms of another, such value shall be reasonably determined by the Bank in consultation with the International Monetary Fund.

ARTICLE VI

Conditions Precedent

Section 6.01 Conditions Precedent to First Disbursement.

The Bank shall not be obliged to make the first disbursement until the following prerequisites have been complied with to its entire satisfaction:-

- (i) The Bank shall have received from the Borrower one or more opinions, satisfactory to the Bank, of a legal practitioner or attorney-at-law, acceptable to the Bank, showing that -
 - (aa) the Borrower has complied with all the necessary requirements under the Constitution, Laws and Regulations in force in Guyana in order to enter into this Loan Agreement;
 - (bb) this Loan Agreement has been duly authorised by and executed and delivered on behalf of the Borrower and the Executing Agency and constitutes a valid and legal binding obligation of the Borrower and the Executing Agency, respectively, enforceable in accordance with its terms.
- (ii) The Bank shall have received proof that the person or persons who signed this Loan Agreement on behalf of the Borrower and the Executing Agency were legally empowered to do so;
- (iii) The Bank shall have been satisfied that the aggregate of all loans (including the Loan) raised under the External Loans Act (Cap. 74:08) of the Borrower does not exceed one billion Guyana dollars (GU\$1,000,000,000);
- (iv) The Borrower and the Executing Agency shall have designated one or more representatives to represent it in all acts regarding the implementation of this Loan Agreement and shall have furnished the Bank with authenticated facsimiles of the signature of the said representative or representatives;
- (v) The Bank shall have been satisfied that all wayleaves required for the Project have been acquired by the Executing Agency;
- (vi) The Borrower and/or the Executing Agency shall have made arrangements acceptable to the Bank for financing an amount in cash not less than two million, one hundred and eighty-two thousand Guyana dollars (GU\$2,182,000) as part of the counterpart contribution of the Executing Agency;
- (vii) The Executing Agency shall have prescribed an increase in its electricity tariff of at least nineteen decimal one percent (19.1%) as from June 1, 1979.

ARTICLE VII

Particular Covenants

Section 7.01 Re-lending of Loan. (a) The proceeds of the Loan shall be re-lent by the Borrower to the Executing Agency on the following terms:-

8.

- (i) The Executing Agency shall repay the amount of the Loan withdrawn from the Loan Account in thirty (30) equal or approximately equal and consecutive semi-annual aggregate payments of principal and interest at the rate of nine percent (9%) per annum on the Due Dates the first payment being due and payable on the date for the first payment under the provisions of Section 3.01 of this Loan Agreement;
 - (ii) Before the commencement of amortisation in accordance with the provisions of paragraph (a) (i) of this Section the Executing Agency shall pay interest at the rate of nine percent (9%) per annum on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time. Such interest shall accrue and be payable in like manner as the interest payable in accordance with the provisions of Section 3.02 of this Loan Agreement;
 - (iii) The Executing Agency shall pay a Commitment Charge at the rate of three quarters of one percent ($\frac{3}{4}\%$) per annum on the amount of the Loan unwithdrawn from the Loan Account from time to time. Such charge shall accrue and be payable in like manner as the Commitment Charge payable in accordance with the provisions of Section 3.04 of this Loan Agreement;
 - (iv) Interest and other charges in respect of the Loan shall be computed daily on the basis of a 365-day year;
 - (v) The Executing Agency shall have a like right to repay in advance of maturity any portion of the Loan outstanding as the Borrower has under the provisions of Section 3.06 of this Loan Agreement;
 - (vi) The Executing Agency shall pay interest on overdue principal interest and/or other charges at the rate of nine percent (9%) per annum in the same manner as the Borrower under the provisions of Section 3.08 of this Loan Agreement;
 - (vii) All payments for principal interest and other charges shall be owed in such currency or currencies as determined under the provisions of Articles V of this Loan Agreement and be payable to the Borrower in the equivalent of such currency or currencies in Guyana dollars at the dates for payment.
- (b) As a condition of making the proceeds of the Loan available to the Executing Agency the Executing Agency hereby undertakes to observe and perform the obligations on the part of the Executing Agency to be observed and performed under this Loan Agreement.

(c) The Borrower shall exercise its rights under any agreement entered into between the Borrower and the Executing Agency pursuant to the provisions of this Section in such a manner as to protect the interests of the Borrower and the Bank and to accomplish the purpose of the Loan and except as the Bank shall otherwise agree, the Borrower shall not assign nor amend, abrogate or waive any such agreement or any part thereof.

(d) If the Borrower shall desire to require the Executing Agency to observe any additional condition or stipulation as a condition of making the proceeds of the Loan available to the Executing Agency the prior approval in writing of such condition or stipulation by the Bank must be obtained.

Section 7.02 Execution of Project. (a) The Borrower shall take all necessary steps to facilitate and ensure the performance by the Executing Agency of its obligations under this Loan Agreement.

(b) The Executing Agency shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, engineering and financial standards and practices.

(c) The Executing Agency shall delegate to its Deputy General Manager ~~sole responsibility for the overall supervision of the Project.~~

(d) In carrying out the construction works for the Project, the following arrangements must be adhered to:-

- (i) the Executing Agency may engage the Consultants engaged by the Executing Agency for the purposes of the segment of its power project being financed by the International Bank for Reconstruction and Development by direct negotiation (but otherwise in accordance with the provisions of the "Guidelines for Choice of Consultants" referred to in Section 4.04 (a) of this Loan Agreement) to revise the necessary contract documents for the Project, to carry out Project management and technical inspection of the construction works and to issue payment certificates, failing which the Executing Agency shall procure the services of competent and experienced consultants for that purpose in accordance with the provisions of the aforementioned "Guidelines for Choice of Consultants".
- (ii) the Executing Agency shall procure the services of competent and experienced Contractors for the construction works in accordance with the provisions of the "Guidelines for Procurement" referred to in Section 4.04 (a) of this Loan Agreement.
- (iii) The Executing Agency may procure replacement materials for the materials provided to it by the Canadian International Development Agency (hereinafter called CIDA) which have deteriorated from the suppliers of such deteriorated materials by direct negotiation (but otherwise in accordance with the provisions of the "Guidelines for Procurement" referred to in Section 4.04 (a) of this Loan Agreement).

Section 7.03 Records and Information. (a) The Executing Agency shall furnish or cause to be furnished to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project and the administration and operations thereof and the financial condition of the Executing Agency.

(b) The Executing Agency shall maintain records adequate to reflect in accordance with consistently maintained sound accounting practice the operations and financial condition of the Executing Agency, and adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to show the expenditures of the proceeds of the Loan and to record the progress of the Project (including the cost thereof). The records for the Loan shall be kept separate and distinct from the records relating to the other operations of the Executing Agency.

(c) The Executing Agency shall

- (i) have its accounts and financial statements (balance sheets, statements of income and expenditure and related statements) for each fiscal year audited by independent auditors acceptable to the Bank in accordance with sound auditing principles consistently applied;
- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year, certified copies of its audited financial statements for such year and an audit report by the said auditors of such scope and in such detail as the Bank shall have reasonably requested;
- (iii) furnish to the Bank such other information concerning the accounts and financial statements of the Executing Agency and the audit thereof as the Bank shall from time to time reasonably request.

(d) The authorised representatives of the Bank shall be entitled to enter on any lands or facilities operated by the Executing Agency for the purpose of inspection of the goods financed out of the proceeds of the Loan and the site, works, plant and construction included in the Project, the operation thereof and any relevant records and accounts and the Borrower and the Executing Agency shall provide the authorised representatives of the Bank with all reasonable opportunities and facilities for this purpose.

Section 7.04 Maintenance of Insurance for the Project.

The Executing Agency shall take out and maintain with responsible insurers or make other arrangements acceptable to the Bank for insurance against such risks and in such amounts as shall be consistent with sound business practice and without any limitation upon the foregoing such insurance shall cover marine, transit and other hazards incident to acquisition, transportation and delivery of goods financed out of the proceeds of the Loan to the place of use or installation,

any indemnity thereunder to be made payable in currency freely usable by the Executing Agency to replace or repair such goods.

Section 7.05 Additional Funds. The Executing Agency shall provide promptly, as necessary, all funds in addition to the Loan and all other resources required for the punctual and effective carrying out of the Project and, in particular, shall be responsible for meeting any amount by which the cost of the Project exceeds twenty-five million nine hundred and thirty-seven thousand Guyana dollars (GU\$25,937,000). If the Executing Agency is unable to meet any such additional cost from its own resources adequate arrangements must be made by the Borrower and/or the Executing Agency to enable the Executing Agency to meet such additional cost in a timely manner.

Section 7.06 Contribution by Executing Agency. (a) Without prejudice to the provisions of Section 7.05 of this Loan Agreement, the Executing Agency shall contribute to the Project:-

- (i) the foundation works and materials provided by CIDA which have been allocated for the Project; and
- (ii) an amount in cash not less than two million, one hundred and eighty-two thousand Guyana dollars (GU\$2,182,000).

(b) The contribution which the Executing Agency is required to make to the Project in accordance with the provisions of paragraph (a) (ii) of this Section shall be expended in a timely manner on the components of the Project to be financed by the Executing Agency in accordance with the Programme set out in Schedule 1 to this Loan Agreement as amended from time to time.

Section 7.07 Management of Executing Agency. (a) In carrying out its business the Executing Agency shall observe the following conditions and stipulations:-

- (i) Except as the Bank may otherwise agree, the Executing Agency shall -
 - (aa) not later than September 30, 1979 institute and thereafter adhere to staff training programmes acceptable to the Bank so as to ensure that an adequate supply of Diesel and Steam Power Engineers, technicians and foremen are in its service by January 31, 1981;
 - (bb) not later than January 31, 1980 employ for at least three (3) years and have in its service competent and experienced personnel acceptable to the Bank, consisting of at least a Deputy General Manager, a Financial Controller, a Senior Diesel Engineer and a Senior Mechanical Engineer, the said Engineers having at least ten (10) years experience;
 - (cc) not later than January 31, 1981 institute and thereafter adhere to appropriate on-the-job training under the supervision

- (cc) of skilled personnel;
 - (dd) maintain a debt to equity ratio of not more than five decimal three (5.3) to one (1);
 - (~~ee~~) ~~keep~~ sufficient stock for its maintenance requirements for four (4) months;
 - (ff) manage its affairs so that accounts receivable shall not at any time be outstanding for longer than sixty (60) days provided that accounts receivable at the date of this Loan Agreement shall be recovered within the shortest possible period but not later than December 31, 1980.
- (ii) The Executing Agency shall -
- (aa) not later than January 31, 1981 or such later date as the Bank may specify in writing institute and thereafter adhere to an integrated planned maintenance programme acceptable to the Bank for all of its generating stations;
 - (bb) adhere to administrative, accounting and auditing arrangements acceptable to the Bank;
 - (cc) conduct its affairs under the supervision of qualified and experienced management and in accordance with appropriate business, electricity and financial standards and practices;
 - (dd) keep its staff at a level consistent with financial prudence and technical and administrative competence.
- (iii) No change shall be made in senior management posts within the organisation of the Executing Agency without the prior approval in writing of the Bank.

(b) If the Executing Agency is unable to meet its administrative and other operating expenses from its own resources adequate arrangements must be made by the Borrower and/or the Executing Agency in a timely manner to enable the Executing Agency to meet such expenses.

Section 7.08 Prescribing Adequate Charges. (a) Without prejudice to its obligations under the legislation establishing the Executing Agency as amended from time to time, the Executing Agency shall prescribe adequate charges for the supply of electricity and the provision of associated services in order to enable it to yield as from January 1, 1984, a return of at least twelve percent (12%) per annum on the aggregate of :-

- (i) its average net fixed assets at book value in operation; and
 - (ii) a working capital allowance consisting of four percent (4%) of its average net fixed assets at book value in operation and ten percent (10%) of its annual cash operating expenses.
- (b) In order to enable it to yield the minimum annual return referred to in paragraph (a) of this Section as from January 1, 1984 the Executing Agency shall prescribe increases in its tariffs of at least fifteen decimal eight percent (15.8%), twelve decimal one percent (12.1%) and five decimal four percent (5.4%) or such other percentages as the Bank may approve as from January 1, 1980, January 1, 1981 and January 1, 1982, respectively.
- (c) The Borrower hereby undertakes not to prevent the Executing Agency from prescribing adequate charges for the supply of electricity and the provision of associated services in order to enable the Executing Agency to yield the minimum annual return referred to in paragraph (a) of this Section and shall take all necessary steps to ensure that the Executing Agency is not prevented by any of the Borrower's agencies from so doing.

Section 7.09 Ensuring Adequate Supply of Poles. The Borrower hereby undertakes not to prevent the Contractors for the Project from importing sufficient poles from outside Guyana to meet the requirements for the Project in a timely manner if and to the extent that the supply of poles within Guyana is inadequate for that purpose and shall take all necessary steps to ensure that the Contractors for the Project are not prevented by any of the Borrower's agencies from so doing.

Section 7.10 Adoption of Expansion Programme. The Borrower shall not later than December 31, 1980 or such later date as the Bank may specify in writing, institute and thereafter adhere to an electricity expansion programme acceptable to the Bank to meet the potential demand for electricity in Guyana over the period 1986 to 1995. To that end the Borrower shall engage Consultants acceptable to the Bank to carry out a feasibility study of the expansion of electricity generation (including hydropower) in Guyana and to make recommendations for the said electricity expansion programme.

Section 7.11 Co-operation between Bank, Borrower and Executing Agency.

- (a) The Bank, the Borrower and the Executing Agency shall co-operate fully to ensure that the purposes of the Loan will be accomplished. To that end, the Bank, the Borrower and the Executing Agency shall from time to time, at the request of any party hereto, exchange views through their representatives with regard to the progress of the Project, the performance by the Borrower and the Executing Agency of their obligations under this Loan Agreement and any other matters relating to the purposes of the Loan.

(b) The Borrower and the Executing Agency shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan, the maintenance of the service thereof, or the performance by the Borrower or the Executing Agency of its obligations under this Loan Agreement.

(c) The Borrower shall afford all reasonable opportunities for accredited representatives of the Bank to visit any part of Guyana for purposes related to the Loan and the Project.

Section 7.12 Responsibility of Borrower for Taxes, Fees, etc. The Borrower shall pay or cause to be paid all taxes, duties and fees, if any, imposed under the Laws in force in Guyana in connection with the execution, issue, delivery or registration of this Loan Agreement, any agreement amending or supplemental to this Loan Agreement, and all payments of principal and interest and other charges thereon shall be made without deduction for any taxes imposed under any such laws.

Section 7.13 Priority of Loan. (a) It is the mutual intention of the Borrower and the Bank that no other external debt shall enjoy any priority over the loan by way of a lien on governmental assets.

(b) To that end, the Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any governmental assets as security for any external debt, such lien will ipso facto and at no cost to the Bank equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and that in the creation of any such express provision will be made to that effect. The Borrower shall promptly inform the Bank of the creation of any such lien.

(c) The foregoing provisions of this Section shall not apply to:

(i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or

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

(d) As used in this Section the term -

(i) "external debt" means any debt payable in any medium other than the currency which at the time in question is legal tender in Guyana whether such debt is payable absolutely or at the option of the creditor in such other medium;

- (ii) "governmental assets" means assets of the Borrower, of any of its political sub-divisions, of any agency of the Borrower or of any such political sub-division, including the Bank of Guyana or any other institution performing the functions of a Central Bank.

ARTICLE VIII

Section 8.01 Cancellation of Loan by Borrower. The Borrower may by notice to the Bank cancel any amount of the Loan which the Executing Agency shall not have withdrawn prior to the giving of such notice, except that the Borrower may not so cancel any amount of the Loan in respect of which the Bank shall have entered into a special commitment pursuant to Section 4.02 of this Loan Agreement.

Section 8.02 Suspension of Executing Agency's Right to make withdrawals from Loan Account. If any of the following events shall have occurred or be continuing, the Bank may by notice to the Borrower and the Executing Agency suspend in whole or in part the right of the Executing Agency to make withdrawals on behalf of the Borrower from the Loan Account:

- (i) The Borrower shall have failed to make payment (notwithstanding the fact that such payment may have been made by a third party) of principal, interest or any other payment required under this Loan Agreement or any other Loan or Guarantee Agreement between the Bank and the Borrower;
- (ii) The Borrower or the Executing Agency shall have failed to perform any other obligation under this Loan Agreement;
- (iii) The Executing Agency shall have failed to make payment of principal or interest or any other payment required under any loan agreement between the Executing Agency and the Bank;
- (iv) An extraordinary situation shall have arisen which shall make it improbable in the Bank's opinion that the Project can be carried out or that the Borrower or the Executing Agency will be able to perform its obligations under this Loan Agreement;
- (v) Prior to the Closing Date, any material adverse change in the condition of the Borrower or the Executing Agency, as represented by the Borrower or the Executing Agency shall have occurred;
- (vi) A representation made by the Borrower or the Executing Agency in or pursuant to this Loan Agreement or any statement furnished in connection therewith and intended to be relied upon by the Bank in making the Loan shall have been incorrect in any material respect;

- (vii) The Borrower shall have withdrawn or been suspended from membership in the Bank;
- (viii) The Bank shall have suspended in whole or in part the right of the Borrower or the Executing Agency to make withdrawals under any other Loan Agreement with the Bank because of a failure of the Borrower or the Executing Agency to perform any of its obligations under any such agreement;
- (ix) Any event specified in sub-paragraphs (iv), (v), (vi), (vii) and (viii) of Section 9.01 shall have occurred;
- (x) Any other event specified in this Loan Agreement for the purposes of this Section shall have occurred.

The right of the Executing Agency to make withdrawals from the Loan Account on behalf of the Borrower shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to such suspension shall have ceased to exist or until the Bank shall have notified the Borrower and the Executing Agency that the right to make withdrawals shall be restored, whichever is the earlier. But in the case of any such notice of restoration, the right to make withdrawals shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall affect or impair any right, power or remedy of the Bank in respect of any other or subsequent event described in this Section.

Section 8.03 Cancellation. If any of the following events shall occur, then at any time thereafter, the Bank may by notice to the Borrower and the Executing Agency terminate the right of the Executing Agency to make withdrawals from the Loan Account on behalf of the Borrower or with respect to the relevant amount of the Loan, as the case may be, and upon the giving of such notice the amount of the loan specified therein shall be cancelled:

- (i) The Borrower shall have failed to comply with the requirements of Section 6.01 of this Loan Agreement by the sixtieth day after the date of this Loan Agreement or by such later date as the Bank may specify in writing;
- (ii) By January 31, 1980, or such later date as the Bank may specify in writing, the Bank has not received any application for withdrawal from the Loan Account or for Special Commitment in accordance with Article IV of this Loan Agreement, or any application, having been so received, shall not have been acceptable to the Bank;

- (iii) The right of the Executing Agency to make withdrawals from the Loan Account on behalf of the Borrower shall have been suspended with respect to any amount of the Loan for a continuous period of thirty (30) days;
- (iv) At any time the Bank determines, after consultation with the Borrower, that an amount of the Loan will not be required for the purposes of the Project;
- (v) After the Closing Date an amount of the Loan remains unwithdrawn from the Loan Account.

Section 8.04 Effectiveness of Provisions after Cancellation or Suspension.

Notwithstanding any cancellation or suspension, all the provisions of this Loan Agreement shall continue in full force and effect except as in this Article specifically provided.

Section 8.05 Amounts subject to Special Commitment not affected by

Cancellation or Suspension by the Bank. No cancellation or suspension by the Bank shall apply to amounts subject to any special commitment entered into by the Bank pursuant to Section 4.02 of this Loan Agreement.

ARTICLE IX

Events of Default

Section 9.01 If any of the following events shall occur and shall continue for the period specified, if any, then at any subsequent time during the continuance thereof, the Bank, at its option, may by notice to the Borrower and the Executing Agency declare the principal of the Loan outstanding to be due and payable immediately together with the interest and any other payments required under this Loan Agreement and upon such declaration such principal, together with the interest and any other payments required under this Loan Agreement shall become due and payable immediately:-

- (i) A default shall occur in the payment of principal or of interest or any other payment required under this Loan Agreement or any other Loan Agreement between the Bank and the Borrower or the Executing Agency, and such default shall continue for a period of thirty (30) days;
- (ii) A default shall occur in the performance of any other obligation on the part of the Borrower or the Executing Agency under this Loan Agreement and such default shall continue for a period of sixty (60) days after notice thereof shall have been given by the Bank to the Borrower or the Executing Agency, as the case may be;
- (iii) A default shall occur in the payment of principal or interest or any other payment required under my guarantee agreement between the Bank and the Borrower and such default shall continue for a period of thirty (30) days;

- (iv) The Executing Agency shall have become unable to pay its debts as they mature or any action or proceeding shall have been taken by the Executing Agency or by others whereby any of the property of the Executing Agency shall or may be attached for the payment of its debts or distributed among its creditors;
- (v) The Executing Agency or any authority having jurisdiction shall have taken any action for the disestablishment of the Executing Agency or for the suspension of its operations or part thereof;
- (vi) Any modification shall have been made in the purpose, nature of objectives, capital or assets of the Executing Agency and particularly, any substantial revision of the legislation establishing the Executing Agency which may have a deleterious effect on the Project or on the purposes for which this Loan Agreement was entered into;
- (vii) There shall have been a cancellation pursuant to Section 8.03 of this ~~Loan Agreement~~ of such an amount as will make it improbable in the Bank's opinion that the Project can be carried out or that the Executing Agency will be able to perform any of its obligations under this Loan Agreement;
- (viii) The Borrower or the Executing Agency shall have failed to fulfil any of its other obligations to the Bank whether arising under the Agreement establishing the Bank or otherwise.

ARTICLE X

Termination

Section 10.01 Upon payment in full of the principal amount of the Loan withdrawn from the Loan Account and all interest thereon and any other payment required under this Loan Agreement, this Loan Agreement and all obligations of the parties hereto shall forthwith terminate.

ARTICLE XI

Applicable Law, Validity and Enforceability

Section 11.01 Applicable Law. This Loan Agreement and all rights hereunder shall be construed and determined in accordance with the Laws of Guyana as in force at the date of this Loan Agreement.

Section 11.02 Validity. In any proceedings under or pursuant to Article XIII of this Loan Agreement neither the Bank the Borrower nor the Executing Agency shall be entitled to assert any claim that any provision of this Loan Agreement is invalid or unenforceable because of any provision of the Laws of Guyana or of the Agreement establishing the Bank or for any other reason.

Section 11.03 Enforceability. The Borrower hereby irrevocably waives all claim or right to any immunity in relation to the enforcement in any court of competent jurisdiction in Guyana of any award made by the Arbitration Committee under Article XIII of this Loan Agreement and submits generally and unconditionally to the jurisdiction of any such court in respect of the enforcement or execution against it of any judgement relating to such award.

ARTICLE XII

Miscellaneous

Section 12.01 All statements, reports, certificates, evidence, opinions, notices, communications and other documents or information furnished or given under this Loan Agreement shall be supplied or submitted in the English Language without cost to the Bank.

Section 12.02 No failure or delay on the part of the Bank to exercise any right, power or privilege under this Loan Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege under this Loan Agreement preclude any other or further exercise thereof or the exercise of any right, power or privilege.

Section 12.03 All notices and other communications hereunder shall be given in writing and shall be addressed to the appropriate party at the address set forth below or at such other place as such party may designate in writing:

For the Bank:

Caribbean Development Bank

Wilbey

St. Michael

Barbados, W.I.

Cable Address: Caribank, Bridgetown

Telex WB 287

For the Borrower:

Secretary to the Treasury

Ministry of Finance

Main & Urquhart Streets

Georgetown, Guyana.

Cable Address: Minfin, Guyana

Telex: Guycoopin 255GY

For the Executing Agency:

Guyana Electricity Corporation

Main Street,

Georgetown,

Guyana.

Any such notice or other communication shall be deemed to have been duly given or made when delivered by hand or mail or by telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address specified in this Section or at such other address as such party may have designated by notice to the party giving such notice or making such communication.

ARTICLE XIII

Arbitration

Section 13.01 (a) Any controversy between the parties to this Loan Agreement and any claim by any such party against any other such party arising out of this Loan Agreement which shall not be determined by agreement between the parties shall be submitted to arbitration before an Arbitration Committee as hereinafter provided.

(b) The parties to such arbitration shall be the Bank on one side and the Borrower and the Executing Agency on the other side.

(c) The Arbitration Committee shall consist of three arbitrators appointed as follows:

One arbitrator shall be appointed by the Bank, another by the Borrower and the Executing Agency or if they shall not agree by the Borrower and a third (hereinafter called the umpire) shall be appointed by agreement between the parties, either directly or through their respective arbitrators. If the parties fail to agree on who shall be the umpire, he shall be appointed at the request of either party by the Secretary-General of the Caribbean Community. If either side fails to appoint an arbitrator he shall be appointed by the Secretary-General of the Caribbean Community at the request of the other party. If either of the appointed arbitrators or the umpire is unwilling or unable to act or to continue to act in such capacity, 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.

(d) An arbitration proceeding may be instituted under this Section upon notice by the party instituting such proceeding to the other party. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration, the nature of the remedy sought and the name of the arbitrator appointed by the party instituting such proceeding. Within thirty days after the giving of such notice the other party shall notify the party instituting the proceeding of the name of the arbitrator appointed by such other party.

(e) If within thirty days after giving notice instituting the arbitration proceeding the parties shall not have agreed upon an umpire, either party may request the appointment of an umpire as provided in paragraph (c) hereof.

(f) The Arbitration Committee shall convene in Barbados at such time and place as shall be fixed by the umpire. Thereafter the Committee shall meet in Barbados or Guyana at such time and place as the Committee shall determine.

(g) Subject to the provisions of this Section and except as the parties shall otherwise agree, the Arbitration Committee shall decide all questions relating to its competence and shall determine its procedure. All decisions of the Arbitration Committee shall be by majority vote.

(h) The Arbitration Committee shall afford to both sides a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by majority of the Arbitration Committee shall constitute the award of the Committee. A signed counterpart of the award shall be transmitted to each party. Any such award rendered in accordance with the provisions of this Section shall be final and binding upon the parties to this Loan Agreement. Each party shall abide by and comply with the provisions of this Section.

(i) The parties shall fix the amount of remuneration of the arbitrators and such other persons as shall be required for the conduct of the arbitration proceedings. The Bank the Borrower and the Executing Agency shall each defray its own expenses in the Arbitration proceedings. The costs of the Arbitration Committee shall be divided between and borne equally by the Bank on the one side and the Borrower and the Executing Agency on the other. Any question concerning the division of the costs of the Arbitration Committee or the procedure for payment of such costs shall be determined by the Arbitration Committee.

(j) The provisions for arbitration set forth in this Section shall be in lieu of any other procedure for the determination of any controversy between the parties to this Loan Agreement or any claim by any such party against the other such party arising thereunder.

(k) If within thirty days after the counterparts of the award shall be delivered to the parties the award shall not be complied with, any party may enter judgement upon or institute a proceeding to enforce the award in any court of competent jurisdiction against any other party, any enforce such judgement by execution or may pursue any other appropriate remedies against such other party for the enforcement of the award and the provisions of this Loan Agreement. Notwithstanding the foregoing, this Section shall not authorise any entry of judgement or enforcement of award against the Borrower except as such procedure may be available otherwise than by reason of the provisions of this Section.

(l) Service of any notice or process in connection with any proceeding under this Section or in connection with any proceeding to enforce any award rendered pursuant to this Section may be made in the manner provided in Section 12.03. The parties to this Loan Agreement waive any and all other requirements for the service of any such notice or process.

SCHEDULE I

(Section 1.01 (ii))

PROGRAMME

Description

1. The Project consists of the erection by the Executing Agency of 110 miles of 69-Kv single circuit transmission line connecting its electricity generating stations at Sophia and No. 53 Corentyne. The transmission line will be erected on wooden poles on land and on steel-framed towers in 2 rivers. Access roads to certain points along the route of the transmission line will be constructed.

2. The total cost of the Project is estimated at GU\$25,937,000 made up as follows:-

	<u>GU\$ '000</u>
CIDA Materials	5,610
Replacement of Materials	1,020
Purchase of Poles	600
Erection Contract	6,711
River Crossing Foundations	550
Crop Compensation	550
Revetment - East Bank Berbice River	186
Wayleaves	60
Access Roads	1,410
Completion of Onverwagt Sub-Station	91
Project Management	1,334
The Executing Agency's Overheads	<u>1,154</u>
<u>Base Cost</u>	18,864
Physical Contingencies	1,256
Price Contingencies	3,523
Interest during Construction	<u>2,294</u>
<u>TOTAL:</u>	<u>25,937</u>

3. The following components of the Project will be provided or financed by the Executing Agency:-

CIDA Materials
Purchase of Poles
River Crossing Foundations
Crop Compensation
Wayleaves
Executing Agency's Overheads
Physical Contingencies
Price Contingencies.

Financing

4. The financing of the Project is expected to be as follows:-

	<u>Project Years</u>					
	<u>GU\$'000</u>					
	<u>PY 0</u>	<u>PY 1</u>	<u>PY 2</u>	<u>PY 3</u>	<u>TOTAL</u>	<u>%</u>
Bank		2,193	10,114	5,288	17,595	67.8
Borrower	6,160	784	763	635	8,342	32.2
	6,160	2,977	10,877	5,923	25,937	100.00

SCHEDULE 2

(Section 4.11)

COUNTRIES ELIGIBLE FOR PROCUREMENT

Regional Member States and Territories

1. Jamaica
2. Trinidad & Tobago
3. Bahamas
4. Guyana
5. Barbados
6. Antigua
7. Belize
8. Dominica
9. Grenada
10. St. Kitts/Nevis/Anguilla
11. St. Lucia
12. St. Vincent
13. Montserrat
14. British Virgin Islands
15. Cayman Islands
16. Turks and Caicos Islands
17. Venezuela
18. Colombia

Non-Regional Member States

1. Canada
2. United Kingdom

Other Eligible States

1. United States of America
2. Federal Republic of Germany

IN WITNESS WHEREOF, this Loan Agreement has been signed in three equally valid copies at Wildey, St. Michael, Barbados, and Georgetown, Guyana on behalf of the Bank, the Borrower and the Executing Agency by their respective duly authorised representatives and shall be deemed to be in force as of the day and year first above written.

CARIBBEAN DEVELOPMENT BANK

GUYANA

Sgd J. Siewrattan

Sgd F. E. Hope
Minister responsible for Finance

THE GUYANA ELECTRICITY CORPORATION

Sgd D. I. G. Thompson
Chairman