

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

## **GUYANA**

### **MODERNIZATION OF THE JUSTICE ADMINISTRATION SYSTEM**

**(GY-L1009)**

### **LOAN PROPOSAL**

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## APPENDIX

### Proposed Resolution

### Electronic Links and References

Basic Socioeconomic Data	<a href="http://www.iadb.org/RES/index.cfm?fuseaction=externallinks.countrydata">http://www.iadb.org/RES/index.cfm?fuseaction=externallinks.countrydata</a>
Status of Loans in Execution and Loans Approved	<a href="http://portal.iadb.org/approvals/pdfs/GYen.pdf">http://portal.iadb.org/approvals/pdfs/GYen.pdf</a>
Tentative Lending Program	<a href="http://opsgs1/ABSPRJ/tentativelending.ASP?S=GY&amp;L=EN">http://opsgs1/ABSPRJ/tentativelending.ASP?S=GY&amp;L=EN</a>
Information Available in the Files of RE3/SC3	<a href="#">Information Available in the Files of RE3/SC3</a>
Policy Letter	<a href="http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=743531">http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=743531</a>
Macroeconomic Assessment (confidential)	<a href="http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=754029">http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=754029</a>
IMF Guyana Fifth Review (confidential)	<a href="http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=754009">http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=754009</a>
Program Summary	<a href="http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=744651">http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=744651</a>
Procurement Plan	<a href="http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=744938">http://idbdocs.iadb.org/WSDocs/getDocument.aspx?DOCNUM=744938</a>

## ABBREVIATIONS

ADR	Alternative Dispute Resolution
AOP	Annual Operating Plan
CSP	Country Strategy Paper
DFID	United Kingdom's Department for International Development
DPP	Department of Public Prosecutions
EU	European Union
FDI	Foreign Direct Investment
FMIS	Financial Management Information System
FSO	Funds for Special Operations
GDP	Gross Domestic Product
GOG	Government of Guyana
HIPC	Heavily Indebted Poor Countries Initiative
IMF	International Monetary Fund
JSC	Judicial Service Commission
JSRS	Justice Sector Reform Strategy
M&E	Monitoring and Evaluation
MDRI	Multilateral Debt Relief Initiative
MLA	Ministry of Legal Affairs
MOF	Ministry of Finance
NDS	National Development Strategy
NGO	Non-Governmental Organization
NPV	Net Present Value
PBL	Policy-Based Loan
PCR	Project Completion Report
PEU	Project Execution Unit
PPA	Public Policy Agenda
PPMR	Project Performance and Monitoring Report
PRGF	Poverty Reduction and Growth Facility
PRSP	Poverty Reduction Strategy Paper
PSIP	Public Sector Investment Program
TC	Technical Cooperation
TS	Technical Secretariat
UNICEF	United Nations Children's Fund
USAID	U.S. Agency for International Development

**PROJECT SUMMARY**  
**GUYANA**  
**MODERNIZATION OF THE JUSTICE ADMINISTRATION SYSTEM**  
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<b>Financial Terms and Conditions <sup>1</sup></b>				
Borrower: Co-operative Republic of Guyana			Amortization Period:	40 years
			Grace Period:	10 years
Executing Agency: Ministry of Legal Affairs			Disbursement Period:	
Source	Amount	%	Policy-Based Comp.	
IDB (FSO) Total	US\$25 million	100	Investment Comp.	3 years
Policy-Based component	US\$15 million	59	Supervision and	
Investment component	US\$10 million	40	Inspection Fee:	1%
Other/Cofinancing			Interest Rate:	1% for first 10 years; 2% thereafter
Local	US\$ 232,000	1	Credit Fee:	0.5%
	US\$25.2 million			U.S. Dollar or other currencies for FSO
Total		100	Currency:	
<b>Project at a Glance</b>				
<b>Project objective:</b>				
The overarching goal of the program is to enhance the investment climate and rule of law in Guyana through improved public sector governance.				
<b>Special contractual clauses:</b> See paragraphs 3.14, 3.15 and 3.16				
For the <i>policy reform component</i> disbursements will be made in two tranches according to the conditions described in the Policy Matrix (Table V-1). For the <i>investment component</i> , the conditions to the first disbursement are the following: (i) evidence that the Project Execution Units have been created and staffed within the High Court and the Ministry of Legal Affairs; (ii) evidence that the JSRS Steering Committee and its Technical Secretariat have been established, staffed and operational; (iii) evidence that the Program's Operations Manual has been adopted; and (iv) evidence that an agreement between the Ministry of Legal Affairs and the High Court for the transferring of resources and program execution purposes has been signed.				
Once the Loan Agreement has entered into effect and the General Conditions prior to first disbursement have been met by the Borrower, it is recommend that the Board of Executive Directors authorize a special disbursement to the Borrower up to the amount of US\$300,000 chargeable to Bank resources, for purposes of implementing the Technical Secretariat and PEUs, and in order to help the Executing Agency to comply with the special conditions prior to first disbursement.				
Prior to the call for bids to carry out physical improvements of courtrooms contemplated in subcomponent 1 of the program, the Borrower will present to the satisfaction of the Bank, evidence of compliance of the following conditions: (i) the JSC Secretariat's governance policies and operational rules have been developed and approved; (ii) the Registrar's Office				

has issued an internal financial management manual to assure the proper handling of financial resources within the Judiciary, consistent with the requirements of the Fiscal Management and Accountability Act 2003 and Regulations and Finance Circulars issued thereunder; and (iii) an internal audit unit is established in the Registrar's Office to conduct internal audits throughout the Judiciary, including in all court offices where financial resources are administered.

**Exceptions to Bank policies:** None

**Project consistent with Country Strategy:** Yes [x]      No [ ]

**Project qualifies**

**for:**                      SEQ[ ]    PTI [ ]    Sector [ ]    Geographic[ ]    Headcount [ ]

**Procurement:** See paragraphs 3.7-3.9

Procurements for the proposed project will be carried out in accordance with current Bank policies for the procurement of works and goods and for the selection and contracting of consultants.

**Verified by CESI on:** March 10, 2006

<sup>1</sup> The interest rate, credit fee, and inspection and supervision fee mentioned in this document are established pursuant to document FN-568-3 Rev. and may be changed by the Board of Executive Directors, taking into account the available background information, as well as the respective Finance Department recommendations. In no case will the credit fee exceed 0.75%, or the inspection and supervision fee exceed 1% of the loan amount (\*)

(\*) With regard to the inspection and supervision fee, in no case will the charge exceed, in a given six-month period, the amount that would result from applying 1% to the loan amount divided by the number of six-month periods included in the original disbursement period.

## I. FRAME OF REFERENCE

### A. Introduction

- 1.1 The institutions in Guyana's justice sector have invested considerable efforts in maintaining law and order and delivering justice, despite their very limited resources. However, significant challenges still remain and have a direct impact on the every day lives of people in Guyana as well as on economic development. A recent survey of Guyanese manufacturing firms showed that 43% of those, which had used the courts over the last two years identified the legal system and conflict resolution in Guyana as a major or severe obstacle to their business operations.<sup>1</sup> It currently takes 525 days to resolve a payment dispute in Guyana (much longer than in other Caribbean countries with similar common-law legal systems), and the direct cost of the process is equivalent to almost one-quarter of the value of the debt.<sup>2</sup> Equally, crime ranks among the top five perceived constraints to business in the country, with 30% of all manufacturing firms viewing it as a major or very severe obstacle to doing business, and 38% percent of firms having been a victim of theft or vandalism in the past year. High crime rates are having a substantial impact upon the quality of life in Guyana, further dissuading investment and (according to anecdotal evidence) fuelling the problem of emigration. The weak dispensation of justice for those criminals that are caught is believed to be one of the factors explaining the high crime rates.
- 1.2 The Government of Guyana (GOG) has made a clear policy decision that addressing these challenges must be a key element in its national development strategy. The Poverty Reduction Strategy Paper, 2001 (PRSP) recognizes public security and access to justice as one of five governance issues that must be addressed in order to achieve the Government's poverty reduction targets. In this context, the Government has requested Bank support for the preparation and financing of a justice sector modernization program.
- 1.3 As part of preparation for this program, the country is executing a Bank-funded technical cooperation (ATN/SF-9163-GY) which supports the adoption of a comprehensive Justice Sector Reform Strategy (JSRS) approved by Cabinet on June 6, 2006. The Strategy was prepared on the basis of an extensive consultation exercise involving all the institutions in the justice sector, as well as other stakeholders including civil society and the private sector. It presents, for the first time, a comprehensive and systemic approach to addressing the problems affecting the justice sector, with the prioritization of reform activities on the basis of a cross-sectoral analysis, rather than individual institutional assessments. The JSRS sets out: (i) the Government's approach for systematically dealing with the challenges currently facing the sector; (ii) a policy framework for strategic coordination and reform; (iii) a costed and prioritized action plan; and (iv) an accountability and monitoring mechanism to drive reform forward.

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<sup>1</sup> Guyana Investment Climate Assessment, World Bank, 2006.

<sup>2</sup> Doing Business database, World Bank.

- 1.4 This Program will support initial steps towards the implementation of the Strategy by addressing key policy reforms and strengthening the operational and institutional framework of the sector. The three main strategic challenges identified in the JSRS form the basis for the objectives, components and activities of the program.

**B. The macroeconomic context**

- 1.5 **Economic Growth and Investment.** The macroeconomic context in Guyana changed substantially between the period 1991-1997 and 1998-2005. While economic growth averaged 7.1% per annum during 1991 to 1997, it fell to an average of only 0.2% in 1998 to 2005. Domestic investment lost dynamism, falling by 12.8% of GDP during the same period, largely as a result of a decline in private investment by around 11% of GDP. FDI flows fell to 6.6% of GDP in 1998-2005, from the previous level of 19%. Public investment, however, has grown rapidly over the past few years, from 12.6% of GDP in 2002 to 24.5% in 2005, suggesting a possible crowding-out of private investment. The deterioration in the external environment is a key factor explaining Guyana's weaker economic growth since the late 1990s, in particular, adverse weather conditions and a significant deterioration in its terms of trade – reflecting declines in the prices of its main export commodities.<sup>3</sup> At the same time, the worsening of the domestic political and security conditions marks a 1990s.critical difference between the period of strong and low economic growth. The situation worsened dramatically in 2005, when extensive flooding and high fuel prices had a significant negative impact on Guyana's agricultural sector, particularly sugar, and the rest of the economy. As a result, GDP is estimated to have decreased by 2.8% in 2005. Although the economy is expected to rebound from this low in 2006, the extent of growth will be limited by renewed flooding this January, continued high world oil prices and reduction in the preferential sugar prices of the European Union (EU).<sup>4</sup> Inflation is expected to remain at its current level (see Macroeconomic Indicators in [Table I-1](#)).
- 1.6 **Fiscal Policy and Debt Sustainability.** The country's fiscal position has deteriorated gradually over the last seven years, from a deficit of 1.7% of GDP in 1999 to 8.7% of GDP in 2003 and—despite improvement in 2004—the deficit reached 13.4% of GDP in 2005. In addition, the public external debt-to-GDP ratio rose to 148% in 2005 (from 137% in 2004). Increases in public sector wages, social spending and capital investments (particularly infrastructure projects and the Skeldon sugar factory) as well as 2005 flood relief all contributed to increased deficits, despite recent high levels of government revenues. Although the Heavily Indebted Poor Countries (HIPC) and Multilateral Debt Relief (MDRI) initiatives have already reduced the Net Present Value (NPV) of external debt-to-revenue ratio to an estimated 205% for 2011, which is below the 250% indicative

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<sup>3</sup> The export sector is heavily concentrated in sugar, rice, bauxite and gold. The terms of trade declined sharply between 1999-2000 (19%) and 2004-2005 (11%).

<sup>4</sup> Sugar is Guyana's largest export, accounting for around one-quarter of total exports. From an average of 17% of GDP in 2002-2004, sugar exports are expected to drop to 13% by 2009-2010.



threshold, Guyana is still at moderate risk for debt distress.<sup>5</sup> Nevertheless, Guyana's debt service indicators remain below their respective thresholds, suggesting that debt service payments are manageable. Under the MDRI, debt service savings are expected to average almost US\$10 million per annum over 2006-2010, equivalent to about 1% of GDP.

- 1.7 **External Financing Gap.** As a result of higher world fuel prices and the implementation of the Skeldon project, the external deficit will widen in 2006 relative to earlier IMF projections, leading to a larger external financing gap. At the same time, analyses of debt sustainability show that Guyana must take a cautious approach to additional borrowing in the near term, even after MDRI. According to IMF projections, the external financing gap will amount to US\$46 million in 2006 (5.5% of GDP), but will decline to US\$8 million by 2009 (around 1% of GDP). The current account deficit (before grants) will narrow to 14% of GDP by 2009 (from 26.5% in 2006) by means of fiscal adjustment, stronger economic growth and the phasing out of large capital imports related to Skeldon. In part, possible PRGF disbursements, MDRI debt relief, and additional balance of payment support from donors, would bridge the financing gap. For 2006, IMF's share of external support to cover the gap could be equivalent to almost 58%, while IDB's share could be roughly 17%. The remaining financing gap could be almost closed by MDRI debt relief (around US\$8 million).<sup>6</sup>

**Table I-2. Guyana: External Financing Requirements and Sources** 1/  
(US\$ million)

	2006	2007	2008	2009
<b>Financing Requirement</b>	265	217	188	178
<b>Available Financing</b> 2/	219	188	168	169
Official Transfers	62	44	36	26
Nonfinancial Public Sector loans	88	82	79	94
GUYSUCO account 3/	22	21	7	0
Private sector (net) 4/	45	41	45	49
<b>Financing Gap</b>	46	29	20	8
Of which				
IMF disbursement	27	0	0	0
IDB PBLs in Pipeline	8	5	20	0
Other	11	24	0	8

1/ Based on the Fifth Review under the PRGF for Guyana (January, 2006) and IDB staff projections.

2/ Totals may not add up due to rounding.

3/ Refers to the sugar state company's retention and escrow accounts.

4/ Includes change of commercial banks NFA, short-term flows and trade credits, net foreign direct investment, and errors and omissions of balance of payments.

- 1.8 **Rationale for IDB Lending.** The revival of private sector investment is key to renew economic growth in Guyana. In addition to contributing to reducing Guyana's financing gap, this operation and others in the IDB's current program—particularly the Policy-Based Loans—seek to improve the investment climate by

<sup>5</sup> Guyana remains vulnerable to exogenous shocks such as exchange rate depreciation and less favorable terms of trade and borrowing.

<sup>6</sup> Guyana could also access to potential fuel imports under the PetroCaribe Accord.

supporting specific policy and institutional reforms. IDB-financed interventions will seek to address key bottlenecks to growth: private sector competitiveness; institutional conditions (especially in the justice sector); public sector efficiency; security; labor force training and physical infrastructure.

- 1.9 The fiscal balance is a continuing concern for Guyana. This operation will bolster the authorities' commitment to maintain sustainable fiscal policy by including a consistent macroeconomic framework as part of its tranche conditions. On the other hand, Guyana plans to introduce a VAT on January 2007, which has been regarded as a key structural reform under the current PRGF.<sup>7</sup> The VAT will improve the efficiency of the tax system and broaden the tax base by including almost all services and adding the wholesale and retail sectors as taxpayers. Additional corrective policy measures, including prioritization of the public investment program, are also being supported through the programming process.<sup>8</sup> The IDB-financed investment program is already included in the reduced five year Public Sector Investment Program (PSIP) approved with Guyana's budget and medium term economic framework in January 2006. In addition, the scenario of disbursements for the 2006 IDB-financed investment program indicates that the bulk of resources would be disbursed after 2008, which coincides with an expected gradual improvement in the fiscal deficit (from 13.6% of GDP in 2006 to 2.7% of GDP in 2010). In this way, IDB financing will limit immediate fiscal pressures, which could have adverse effects on debt sustainability.
- 1.10 **The Poverty Reduction and Growth Facility (PRGF) Agreement with the IMF.** Guyana is currently engaged in a PRGF Arrangement with the IMF, which will expire in September 2006. Based on the Fifth Review under the facility, Guyana's program with the IMF is on-track.<sup>9</sup> The Sixth Review is expected to be completed in September 2006.<sup>10</sup> Preliminary findings of an ex Post Assessment of Longer-term Program engagement with the IMF suggest that weak implementation combined with adverse exogenous developments were the main causes of programs falling short of their objectives, although program design left room for improvement. At this point, it is unclear what will be the future form of engagement between the IMF and Guyana. The ex Post Assessment report considers that the most appropriate arrangement at the current stage seems to be a low-access PRGF, subject to certain conditions. Other alternatives for a continued relationship could be the Policy Support Instrument (involving no financial support) or intensive surveillance.

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<sup>7</sup> The IMF mission for the Sixth Review will be assessing progress toward implementing the VAT by January 2007.

<sup>8</sup> The IDB and Guyanese authorities are currently discussing measures to reduce public expenditures to offset any additional investment lending (approximately US\$26 million) resulting from the 2006 Funds for Special Operations (FSO) allocation.

<sup>9</sup> The report of the Fifth Review under the PRGF was published on January 2006.

<sup>10</sup> A mission to undertake this review is planned by early June 2006.

## C. The justice sector

- 1.11 The justice sector is generally understood to comprise state institutions directly involved with the oversight, procurement and delivery of justice related services. These services extend from the investigation and prosecution of alleged criminal acts to the resolution of disputes between individuals or agencies. They can encompass prevention, deterrence, arbitration, mediation, conciliation, adjudication, restitution, compensation of damages, punishment and education. A brief overview of sector institutions is provided as follows:
- 1.12 *The Courts:* There are three levels of court in Guyana, the Court of Appeal, the High Court (which together comprise the Supreme Court) and the Magistrates Courts. *The Court of Appeal's* function is to hear appeals from the High Court, and it is the court of final jurisdiction in Guyana for both civil and criminal matters. Constitutionally, the Court of Appeal is presided over by the Chancellor (who is the Head of the Judiciary), and five Justices of Appeal.
- 1.13 *The High Court* is comprised of the Chief Justice and eleven Puisne (Junior) judges. Its functions are to hear indictable criminal offences (i.e. offences carrying a sentence of imprisonment of more than five years); civil cases outside the jurisdiction of Magistrate's Courts (G\$50,000), administrative cases; and appeals from Magistrates Court. There are three High Court centers in Guyana, and two registries. *The Magistrates Courts* handle about 90% of all litigation in Guyana including: (i) in criminal jurisdiction, minor and more serious offences which are not indictable (i.e. carrying a potential sentence of up to five years imprisonment) and preliminary enquires of indictable offences (i.e. initial hearings of cases which go to the High Court for full trial); and (ii) in civil jurisdiction, monetary claims of under G\$50,000 (US\$250), some proceedings for possession of land, and matrimonial cases (e.g. separation orders, maintenance orders and child custody orders). Guyana is divided into eight magisterial districts. All Magistrates Courts hear both civil and criminal matters.
- 1.14 Guyana has approximately 1.7 Judges per 100,000 population (3.5 if Magistrates are included), which makes for a relatively small Judiciary compared with other countries in the Region (Trinidad and Tobago: 6.3; Dominican Republic: 7; St. Kitts and Nevis: 15).
- 1.15 The *Judicial Service Commission* (JSC) is a Constitutional body empowered to make judicial appointments and take disciplinary action against members of the Judiciary. It exercises this function directly for more junior positions, and through recommendation to the President with respect to senior judicial officers. The JSC comprises as *ex officio* members the Chancellor, Chief Justice and the Chairman of the Public Service Commission, together with up to three members appointed by the President.
- 1.16 The mandate of the *Ministry of Legal Affairs* is to ensure an adequate system for the administration of justice, give legal advice and provide legal services and

representation for the Government, provide public registry services, and draft legislation for presentation to Parliament. The Minister for Legal Affairs—who is also *ex officio* the Attorney General—holds Parliamentary and Cabinet accountability for all justice sector institutions not otherwise represented in Parliament or Cabinet.

- 1.17 The *Department of Public Prosecutions* (DPP) has oversight over all criminal prosecutions and provides legal advice on criminal matters to the Police and other law enforcement agencies. In addition, it is responsible for instituting criminal proceedings and, when considered to be in the interest of justice, taking over criminal proceedings instituted by the Police. In practice, Police prosecutors deal with Magistrates Court prosecutions and the DPP prosecutes cases in the High Court.
- 1.18 The *Legal Practitioner's Committee*, set up under the Legal Practitioners Act, is responsible for administering the disciplinary system for attorneys. The Committee is composed of three *ex officio* members (including the Attorney General) and not more than 12 practicing attorneys. The Committee's remit is to make recommendations to Supreme Court judges, who direct whether or not further proceedings should be taken. There are currently between 175 and 200 practicing attorneys, of which about 30% are members of the voluntary *Bar Association*.
- 1.19 In addition to the above institutions, all of which will benefit directly from the program, others deserve mention as important parts of the justice sector: the *Guyana Police Force* (headed by a Commissioner accountable to the Ministry of Home Affairs) is in charge of the prevention and detection of crime, the preservation of law and order, the repression of internal disturbance, the protection of property and the apprehension of offenders and due law enforcement. The *Guyana Prison Service* is in charge of managing six prison facilities in which 1,482 prisoners are currently in its custody. Of these, 450 are on remand (awaiting trial). The function of the *Probation Service* is to provide reports to the Judges and Magistrates for sentencing purposes and, in the High Court, to provide reports in family proceedings headed by the Chief Probation and Family Welfare Officer. Although the program will not work directly with these institutions, they stand to benefit indirectly from the improved sector coordination and resource allocation efforts envisaged under the operation.

**D. Current situation and main challenges faced by the justice sector**

- 1.20 Throughout the Bank's experience in promoting the rule of law, it has been established that "the central characteristics of a justice system that is able to perform its functions effectively are fairness and impartiality, sound decisions,

accessibility, efficiency, independence, accountability, and credibility.”<sup>11</sup> The justice system in Guyana faces challenges in virtually all of these areas.

## **1. Challenge 1: Strengthening the sector’s accountability and efficiency**

- 1.21 An overview of Guyana’s justice system reveals serious deficiencies in service provision. Indeed, it is clear that functions vital to the efficient and effective delivery of justice are not being properly performed. An often-cited symptom of these deficiencies is the large judicial case backlog. In recent years some limited progress has been made in reducing the size of this backlog at the High Court level through a program of additional working hours, but there are still around twelve thousand cases pending in the courts.
- 1.22 There are several cross-cutting issues that go to the heart of the deficiencies in the delivery of justice and that have an impact on institutions within the sector. All these issues have been identified by the JSRS and, briefly described, they are:
- a. **Chronic under funding.** The justice system has suffered from decades of underinvestment (Guyana allocates 0.6% of total expenditure to the Judiciary).<sup>12</sup> Furthermore, current rules governing the approval and execution of the judicial budget are of particular concern. Although the Constitution provides for an administratively autonomous court system,<sup>13</sup> financing for the Judiciary (except for Judges’ salaries) is allocated and periodically revised by the Minister of Finance in the same way as all other public expenditures. Also relevant to the limited control of the Judiciary over its budget allocation and expenditure processes is its own lack of capacity in medium-term planning and overall budget management (there is no budget committee in the court and there is no formal in-house audit function, so budget planning capacity, financial controls, and reporting are weak).
  - b. **Deficiencies in human resources.** All institutions in the sector face serious challenges recruiting, motivating and retaining high caliber staff at all levels (with significant vacancy rates, ranging from 5% to 50%). These staff shortages undermine the delivery of vital services in the sector. Poor remuneration and limited training and promotion opportunities are frequently cited reasons for these vacancies. In the courts, ancillary staff is considered part of the civil service, which prevents the Judiciary from exercising sufficient authority over personnel performing judicial support services.
  - c. **Outdated rules of procedure.** Various laws regulating court procedures contribute to delays. Even though procedures are usually instituted to ensure fair and impartial judgments, some improvements could be implemented in both

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<sup>11</sup> Assessment of IDB Experience in Justice Reform: Recommendations for Policy Formulation, Christina Biebesheimer, J. Mark Payne. November 2001 (p. 4).

<sup>12</sup> This is significantly less than the allocations made by other countries in the region (e.g. Bahamas: 3.18%; Dominican Republic: 1.23%; St Lucia: 1.75%).

<sup>13</sup> Article 122A (2): “All courts shall be administratively autonomous and shall be funded by a direct charge upon the Consolidated Fund; and such courts shall operate in accordance with the principles of sound financial and administrative management”.

criminal and civil cases in line with international best practices. These could include judicial case management (for all cases); a “cards on the table”<sup>14</sup> approach (for civil cases); and provisions introducing custody time limits for Magistrates Court cases, reforming the system of preliminary inquiries for indictable offences, and sentencing guidelines (for criminal cases).

- d. **Lack of timeliness standards for judicial decisions.** Although the JSC is empowered under the Constitution to initiate disciplinary processes against judges for “persistently not writing decisions”, there is little institutional support for this function. The JSC has no administrative capacity—there is no permanent secretariat to the JSC to receive and follow up on complaints regarding members of the Judiciary. Moreover, the JSC has no clear disciplinary rules and procedures.
- e. **Institutional “gaps” in service provision.** Certain sector functions that are vital to the efficient and effective delivery of justice are simply not being performed properly. One of the most important gaps pertains to independent decisions on prosecutions of criminal cases, since the Police carry them out at the Magistrates Court level. This means that the investigative and prosecution functions are performed by the same institution in most cases, thus contradicting international best practices. Another institutional gap is related to the justice sector’s policy making and planning functions which are part of the formal mission of the Ministry of Legal Affairs (MLA). The MLA does not currently have the capacity to perform these tasks, focusing rather on the provision of legal services to Government. However, most of the activities in relation to the sector require action by the MLA, both at the policy level (as the Ministry with responsibility for some of the key pieces of legislative reform to be undertaken under the Strategy) and the investment level.
- f. **Other institutional deficiencies** include the lack of a modern case flow management system, poor statistical data gathering and analysis, cumbersome manual administrative systems, inadequate court administration systems, poorly maintained physical infrastructure and scarce basic equipment, and lack of peer interaction and knowledge sharing.

## **2. Challenge 2: Strengthening linkages among justice sector institutions**

- 1.23 Much of the analysis of the challenges facing the justice sector undertaken in past studies has tended to focus on a particular institution. Until the recent discussion of a strategic plan for the sector, there had been no consensus about the relative impact of the problems affecting the justice system and their possible solutions. Views expressed have tended to be centered on individual institutional priorities and responses to problems.

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<sup>14</sup> “Cards on the Table” approach refers to rules requiring parties to disclose details of their case before going to court. This is designed to encourage resolution of the dispute outside the court system as cases that do enter the courts are confined to the real issues in dispute.

- 1.24 Although it is true that many problems in the justice sector are due to weak capacity within individual entities, it is also the case that the performance of any one institution is substantially dependent on the performance of a number of others. The specific context of criminal justice clearly illustrates this fact. Deficiencies in a Police investigation at the start of a case often cause problems and delays when the case is brought to trial and may result in the case being dismissed, thus wasting judicial time. From the Police point of view, there is little incentive to make arrests if magistrates grant bail too easily, enabling offenders to be released and offend again.
- 1.25 There is thus a great deal of scope for addressing problems through administrative changes that target the manner in which the various institutions of the sector relate to each other. Operational areas where there is scope for enhanced coordination include:
- a. Sector wide policymaking and strategy development.
  - b. The transfer of files between institutions (for example, between the Police and the DPP) to ensure that files and/or case jackets do not get lost.
  - c. Improved and coordinated record keeping to enhance exchange of information (and statistical gathering) between institutions in the sector.
  - d. Enhanced communication between the Police, the Prison Service and the Magistrates Court when listing cases for preliminary enquiry to ensure that the case is not listed until the accused, the witnesses and the Police are all ready to proceed in court.
  - e. Communication between the Prison Service and the Court concerning the length of time an accused person has been awaiting trial, in order to determine the urgency of hearing a case.
  - f. Improved information from the DPP to the High Court registrar, including the date of committal, in order to facilitate the listing of cases for trial.

### **3. Challenge 3: Improving access to justice**

- 1.26 Access to justice—understood as the ability of people to exercise their rights or resolve their disputes through the justice system, without distinction based on ethnicity, race, gender, or socioeconomic condition—remains a challenge in Guyana. Consultations undertaken throughout the years have identified a number of major hurdles to improved access:
- a. **Weak structures for the regulation of attorneys.** The Legal Practitioners Act sets up the Legal Practitioners' Committee, but this does not currently operate as a satisfactory regulatory body for the profession. For example, there is no monitoring of standards or institutionalized system of professional development through ongoing training and exposure to international developments in legal practice. Also, lawyers' fees can create a real barrier to bringing civil cases, particularly as multiple court appearances are common due

to adjournments. In response to this need, contingency fee structures are regularly applied around the world to cases where the plaintiff or defendant cannot pay for legal support. Such arrangements, however, are currently prohibited under Guyana's Legal Practitioner's Act.

- b. **Restricted access to legal advice and representation.** This is a serious concern because of the fundamental issues that the justice system deals with, including loss of life and liberty. There is no provision guaranteeing legal representation in Guyana's legal framework. While there is a basic existing system of legal aid (delivered through the Georgetown Legal Aid Centre and the Women Lawyers of Guyana Association), services are mainly limited to case advocacy and representation at trial. Other legal services (i.e. legal advice, legal referral, paralegal services, community Alternative Dispute Resolution-ADR) are absent.
- c. **Limited ADR options.** Mediation has been operating at the High Court in Georgetown since October 2003 with support from USAID. The mediators are available for specific and limited civil matters and only to High Court clients, most of whom are already represented. There is currently no mediation system outside the High Court.
- d. **Limited awareness of legal rights and responsibilities.** Currently, there is very little information given in simple language, which is widely available to inform such people of their rights and responsibilities. While a small number of Non-Governmental Organizations (NGOs) have produced information leaflets and booklets, these are not yet available nationally.

#### **E. The country's sector strategy**

1.27 Guyana has identified the rule of law as a priority in its efforts to improve governance. Guyana's National Development Strategy for 2001-2010 (NDS) highlights numerous strategic actions in this regard (for example, court administrative system reforms, ensuring judicial responsibility for budget and financial administration, improving judicial skills and integrity, and establishing timeliness standards regarding judgments). Similarly, Guyana's PRSP (2001) identifies justice reform as a key area of intervention under 'Good Governance and the Business Environment'. Accordingly, progress has been made over the past few years in addressing some of the key challenges the sector faces. These previous achievements include:

- a. **Dealing with lack of coordination mechanisms across the sector:** An inclusive consultation process has recently been led by the Government as part of the JSRS preparation (see paragraph 1.3).
- b. **Dealing with delays in the court system:** (i) A case audit has been undertaken in the High Court; (ii) the process of updating of High Court rules for civil cases is well advanced; (iii) a High Court Mediation Centre 2-year pilot was successfully completed in October 2005 (proposals for mandatory



mediation and pre-court mediation are being considered); (iv) a Commercial Court division of the High Court started operations in 2006.

- c. **Dealing with poor facilities and inefficient systems:** (i) Improvements have been made to the High Court library; (ii) management and statistical systems are being devised to gather and assimilate information; (iii) a staff appraisal system is ongoing within the High Court; (iv) study tours have been undertaken to sensitize judicial officers to best practices.
- d. **Tackling limited access to justice:** (i) The Amerindian Bill (currently in Parliament) acknowledges the role of Village Councils in dispute resolution; and (ii) the Probation Service has trained social workers to work in the community.
- e. **Responding to public concerns about safety and security:** (i) the Police are in the process of developing a new Strategic Plan that will provide the framework for reform; and (ii) the Police have new initiatives on domestic violence, drug crime and community policing.

#### **F. The Bank's country and sector strategy**

- 1.28 The Bank has been carrying out projects to strengthen the administration of justice and the rule of law across the region since 1994. The design of this program incorporates lessons learned, including the following: (i) it is essential to design projects that fit local institutional and political circumstances, using a participatory process to reach a consensus with the various stakeholders; (ii) the design structure should include feedback and adjustment processes during the execution period, in order to monitor and plan activities according to demands and changes that may arise; and (iii) the execution structure should include means of sector-wide coordination to reflect the involvement of the different branches of government.
- 1.29 In the specific case of Guyana, the Bank's Country Strategy Paper (CSP) for 2002-2005 (GN-2228-1) underlined the impact of a recent increase in crime and violence upon both the citizens' quality of life and investor confidence. Accordingly, the CSP not only made provision for an operation in the area of Citizen Security and Justice, but it also highlighted the strengthening of these areas as two elements of a comprehensive Public Policy Agenda (PPA) included in the strategy as a complement to the operational pipeline. Under the PPA, the Bank has been monitoring the authorities' progress on a series of critical reform benchmarks. The level of progress on these benchmarks, in turn, is expected to influence the amount of concessional funding approved by the Bank for Guyana. The Bank has also contributed through a technical cooperation to support the establishment of a Commercial Court (ATN/SF-8423-GY), which was approved in September 2003.<sup>15</sup>

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<sup>15</sup> To date, 73% of approved TC funds of \$500,000 have been disbursed.

- 1.30 The Government of Guyana has agreed to address issues of justice and citizen security through this program and another operation currently under preparation (Citizen Security Program—GY0071). The latter is entirely consistent with a series of recommendations in the Justice Sector Reform Strategy relating to the strengthening of crime management capabilities and improved community prevention efforts. These two initiatives could support the implementation of complementary activities to be carried out by separate but inter-dependent justice sector institutions.

#### **G. Program strategy**

- 1.31 This Program will support initial steps towards implementation of the JSRS. In doing so, the program will be informed by the following basic principles: (i) recognition of the correlation between growth, social development, political stability and the rule of law; (ii) focus on comprehensive, sector wide solutions; and (iii) treatment of judicial independence and accountability issues as mutually complementary.
- 1.32 The project team and the Government of Guyana have agreed that the hybrid loan modality (encompassing both policy-based and investment components) is particularly suited for this operation due to two factors: (i) the need in the short term to lay the foundations for justice sector reform through a number of improvements to the policy framework (driven principally by the Executive branch); and (ii) the need to provide technical assistance not only for the design of these policy reforms, but also technical and investment support for the subsequent initiation of a long-term process of capacity building in those justice sector institutions responsible for implementation. The aim of this approach is to build consensus and momentum behind the longer-term reform process.
- 1.33 The consultative and analytical groundwork carried out during the design of the Justice Sector Reform Strategy has led to a good understanding and broad consensus regarding the key steps necessary for comprehensive medium term reform. For this reason, a multi-tranche approach has been chosen for the policy-based component. Furthermore, given the priority of these reforms and the visibility the issue has acquired as a result of the consultation process, the multi-tranche approach allows the government to signal its commitment to the policy and institutional reform agenda contained in the strategy.

#### **H. Coordination with other donors**

- 1.34 The modernization of the justice system is accepted by other development agencies as an important part of governance improvement and public sector modernization in Guyana. In order to ensure that all initiatives properly complement one another, the Bank has held individual consultations with other donors and benefited from some of the work already started by them. More importantly, these agencies have participated fully in the process of stakeholder consultations for the drafting of the Justice Sector Reform Strategy. Selected ongoing assistance is summarized as follows:

- a. The U.S. Agency for International Development (USAID) has been working with the justice sector to introduce Alternative Dispute Resolution (ADR) approaches to address the backlog of civil cases, specifically a court connected mediation system at the High Court level. Also, USAID funded a study to assess the High Court and Court of Appeal's efficiency, including court administration, policy making process and execution, case management and related bottlenecks, court fees and payment schedules, and staffing and training. The conclusions of this study were taken into account for the design of this operation.
- b. United Kingdom's Department for International Development (DFID) has funded a study to review the rules for the administration of the courts of justice. The conclusions of this study were also considered in the design of this operation.
- c. The United Nations Children's Fund (UNICEF) has funded the review of two Acts relating to children (Children's Rights Bill and Training Bill) and is also funding a HIV/AIDS program at the New Opportunity Corps for juveniles.

## **II. THE PROGRAM**

### **A. Objectives and description**

- 2.1 The overarching goal of the program is to enhance the investment climate and rights enforcement in Guyana through improved public sector governance. To achieve this objective, and in accordance with the three main pillars of the JSRS, the operation is intended to assist the Government of Guyana in taking initial steps towards: (i) strengthening the accountability and administrative efficiency of service delivery in the justice sector; (ii) enhancing linkages and coordination within justice sector institutions; and (iii) improving access to justice.

### **B. Structure of the program**

- 2.2 These objectives are to be attained by means of two interrelated components: (i) a policy-based component supported by a Policy-Based Loan (PBL) of US\$15 million; and (ii) an investment and technical support component supported by an investment loan of US\$10 million. The investment component will help to implement the policy reform program and also support initial capacity-building activities in justice sector institutions.

#### **1. Policy-based component (US\$15 million)**

- 2.3 This component is intended to support the adoption of a series of policy reforms, including legislative and administrative actions, that are necessary to improve the accountability, efficiency and accessibility of Guyana's justice sector. The financial support under this PBL component will be disbursed in two tranches. For each tranche, specific benchmarks have been agreed with the Government of Guyana to monitor program implementation. The sequence of actions that will

constitute this set of benchmarks is laid out in the conditionality matrix (see Table V-1 in Chapter V). The purpose of each tranche is summarized as follows:

- 2.4 **First tranche (US\$7 million):** The tranche will support the drafting of a new legal framework that will change the fundamental rules governing justice sector functioning, as well as the implementation of key institutional aspects of the reform (including new self-governance rules for the Judiciary and a framework for ensuring greater judicial financial autonomy, the adoption of new sector reform strategic plans, and the creation of relevant sector-wide institutions to promote greater coordination and to improve policy and planning processes for the sector as a whole).
- 2.5 Rules, guidelines and regulations to be adopted will also include the development of a code of conduct and ethics for judges and magistrates (and related disciplinary and sanctions provisions), mechanisms for filing of complaints, and enforceable timeliness guidelines pertaining to the issuance of judges' decisions and reasons. First tranche conditions also entail substantial legal and institutional reforms, including development of several new acts, amending numerous existing acts pertaining to criminal and civil procedural provisions and judicial process rules, and re-establishment of the Law Revision Commission. Measures to promote greater access to justice include amending the Legal Practitioners Act and granting authority to judges to refer cases to the Legal Practitioners Committee.
- 2.6 **Second tranche (US\$8 million).** Program actions will support final approval of legislation and administrative rules drafted under the first tranche; additional measures designed to further implementation of first tranche conditionality; assumption of human resource management responsibilities by the Judicial Services Commission (an entity more closely linked to the Judiciary); approval of a legal instrument(s) providing for a new budget approval process and expenditure management procedures necessary for ensuring greater judicial financial autonomy; and approval of a modernized legislative framework for alternative dispute resolution.
- 2.7 Second tranche condition also specify the approval of a monitoring and evaluation framework for the whole sector (including agencies not directly benefited by this Program) and the completion the first biannual monitoring reports assessing progress of reform implementation plans against goals and targets. Finally, a condition is included whereby the Law Revision Commission will have completed a comprehensive plan for updating and consolidating the Laws of Guyana.

## **2. Investment and technical support (US\$10 million)**

- 2.8 The activities included in this component will assist the justice sector in achieving and sustaining the reform benchmarks previously identified by financing required operational improvements of leading institutions in the sector. The resources included in this component will finance training, consultancy services, the

procurement of computer hardware and software, and the refurbishment of physical facilities.

**a. Subcomponent 1: Enhancing institutional capacity (US\$4.7 million)**

- 2.9 The purpose of this subcomponent will be to improve the quality, efficiency and efficacy of service delivery in justice sector institutions in Guyana by strengthening governance and accountability, building institutional capacity, streamlining legal procedures and modernizing administrative systems. Specifically, this subcomponent will finance activities in the following areas:
- 2.10 **Strengthening the Judicial Services Commission (JSC).** *Objective:* Improve governance, recruitment, human resource management and accountability of judges, magistrates, and court staff. *Specific tasks:* Consultancy services will be contracted by the Judiciary's PEU in order to assist the JSC in (i) developing JSC governance policies, operational rules and regulations; (ii) developing a new code of conduct and ethics for judges and magistrates, as well as enforceable timeliness guidelines pertaining to orders and opinions as provided by the Constitution; and (iii) conducting workshops for judges to sensitize them to the new codes and guidelines. The Program will also finance the equipment and facility improvements needed to establish a JSC Secretariat. Consultancy services will also be provided to, in consultation with the Registrar's office, support the JSC in planning for and then assuming jurisdiction and oversight (including recruitment and discipline) of court administration staff.
- 2.11 **Reducing Backlog and Raising Clearance Rates.** *Objective:* Eliminate the backlog of civil and criminal cases in the High Court, Magistrates Courts and Appeals Courts, and reduce delays in the management and adjudication of cases. *Specific tasks:* (i) design and implementation of new case flow management procedures and related training to be provided by experts in case management; (ii) building on the existing High Court civil cases backlog clearance program, consulting services will be provided to assist in streamlining the process and expanding it to criminal cases, as well as preliminary inquiries; (iii) consulting services will also be hired to expand court-connected mediation to the Magistrates Courts.
- 2.12 **Strengthening court administration.** *Objective:* Strengthen the administration of the Supreme Court of Adjudication in the management of cases and case-related information, human resources, and its budgeting and financial activities. *Specific tasks:* necessary expertise and equipment will be contracted and procured in order to (i) support to the Supreme Court Registry in the development and implementation of modern and transparent human resources policies and programs (including a reorganization, development of job descriptions and performance standards, and comprehensive training and continuing education for court staff); (ii) design and implement an information and management and communication system (including inter-court intranet and email communication system for both the Magistrates' and High Courts); (iii) provide support to improve court financial management (with a focus on accounting and controls,

financial reporting, budgeting); and (iv) design and installation of a modern financial management information system (FMIS), and related training for court administration staff.

- 2.13 **Enhancing skills and productivity of Judges and Magistrates.** *Objective:* Improve the quality of judicial decisions and opinions and the overall productivity of judges and magistrates. *Specific tasks:* (i) supply specialized training and continuing education throughout the project period for judges and magistrates with programs focused both on specialized areas of law (i.e., family) and on judicial skills (also, while the emphasis will be on in-country training, the program will make resources available for study tours, primarily within the Caribbean and North America); and (ii) purchase legal materials, resources and tools such as legal texts (stocking of law libraries) and subscriptions to online legal resources. A consultant will be contracted to, in consultation with the Chief Justice, judges and magistrates, assess needs, conduct an inventory, and develop a plan for procurement of the most-needed texts, materials and resources to be procured within the available budget. The consultant will also provide orientation and training to judges in the use of online legal resources.
- 2.14 **Rehabilitation of physical improvements to courtrooms and courthouses.** *Objective:* Ensure that courthouses and courtrooms are basically equipped to facilitate hearings and trials of civil and criminal matters. *Specific tasks:* (i) develop a needs assessment and procure furnishings and minor civil works for courthouses-in-need (especially several dilapidated courthouses in rural areas); (ii) procure equipment for court rooms (including court recording equipment and training of court reporters) and IT and related equipment for magistrates Court Offices; (iii) and procure goods, equipment and minor works for court houses relating to miscellaneous furnishings, basic equipment, soundproofing and air conditioning.
- 2.15 **Improving criminal justice.** *Objective:* Enhance the functional and operational capacity of the DPP and strengthen the effectiveness of public prosecutors. *Specific tasks:* consulting services will be hired in order to (i) help design and implement a functional and operational reorganization of DPP; (ii) develop and implement a plan for phasing out of Police prosecution of narcotics and indictable cases (short-term) and phasing out of Police prosecution of all criminal matters (long-term); (iii) train prosecutors and Police<sup>16</sup> (including training for prosecutors in specialized areas such as cyber-crime and money laundering) and DPP staff. Also the Program will finance the design and installation of management information system software; procurement of minor works and furnishings for confidential witness discussions; and procurement of goods, equipment, minor works for expansion of DPP offices outside of Georgetown.

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<sup>16</sup> Although police prosecutions will be gradually phased out under the program, training of police in prosecution methods is still considered worthwhile in the interim period, not least because awareness of these methods will subsequently assist the Police Force in improving the conduct of criminal investigations.

- 2.16 **Institutional strengthening of the Ministry of Legal Affairs (MLA).** *Objective:* Strengthen the functional and operational capacity of the MLA in carrying out its legal mandates and improving its administrative efficiency. *Specific tasks:* Consultancy services will be hired in order to (i) review of the legislative making process, including the system for assignment of legislation to Ministries and development and implementation of a reform plan; (ii) review policies and procedures in relation to the conduct of Government litigation and develop policy guidelines and/or legislation; and (iii) assess functional and operational structure of MLA and implement a plan for strengthening legal sector policy and planning departments.
- 2.17 **Drafting civil and criminal procedural laws.** *Objective:* Modernize antiquated civil and criminal procedural laws and rules and draft new acts necessary for more efficient, effective and fair treatment of civil and criminal cases in the courts. *Specific tasks:* (i) Provide consulting support to MLA process of overseeing review of criminal and civil procedural provisions/rules in consultation with Judiciary and Bar; (ii) provide consulting support to MLA for legal drafting (this will include amendments to: Summary Jurisdiction (Petty Debt) Act; Summary Jurisdiction (Magistrates) Criminal Law (Procedure) Acts; Summary Jurisdiction (Offences) Act; Criminal Law (Offences) Act; Evidence Act, Arbitration Act, Legal Practitioners Act); and (iii) workshops will be conducted, with the participation of experts involved in drafting the law amendments, to sensitize judges/magistrates to the revised and new laws, and provide digests (with guidelines) on the revisions.
- 2.18 **Improve other criminal and civil law procedures.** *Objective:* Modernize and streamline criminal and civil procedures to achieve greater simplification, uniformity and predictability in matters of bail, sentencing, costs, appeals, and continuity of hearings and trials. *Specific tasks:* (i) develop comprehensive guidelines for granting bail by judges and magistrates; (ii) reform of listing and notification procedures to ensure ‘continuous’ (day-to-day) hearings and trials in High Court and Magistrates Court; (iii) establish and implement plan for simplifying appeal procedures; (iv) establish sentencing guidelines (including community service orders) and a framework to facilitate consultation between judges and magistrates on sentencing issues; (v) develop guidelines on adjournments; (vi) develop guidelines and provide related training on assessment of costs; (vii) review current methods of enforcement and develop reform plans and (viii) in consultation with main stakeholders, conduct a review of court fees and fines (which will then be included in the new High Court civil procedure rules).

**b. Subcomponent 2: Strengthening Linkages among Justice Institutions (US\$1.2 million)**

- 2.19 The purpose of this subcomponent will be to promote more efficient interactions among justice institutions through both “top down” and “bottom up” approaches. Top down interventions will be concerned with sector-wide policy, planning and resource allocation. The bottom up approach will enhance communication, coordination and cooperation among institutions at the operational/local level.

- 2.20 As part of its support to **sector-wide policy leadership, planning and coordination** (top down approach), the subcomponent will finance activities for the establishment of the Justice Sector Reform Steering Committee and its Technical Secretariat (TS). The Steering Committee will provide high-level policy guidance and coordination for implementation of the JSRS. It will bring together a small group of key policy makers from Government and the Judiciary (including, at a minimum, the Ministry of Finance (MOF), the Attorney's General Chambers, the MLA, the Ministry of Home Affairs, the Chancellor of the Judiciary and the Chief Justice), and provide continuity with the group that led the development of the JSRS. The Steering Committee will provide an important high level forum for the various sector agencies to coordinate the overall reform, solve strategic problems as they arise, ensure that the overall Strategy is being followed, and all organizations are delivering what they need to do on time and within budget. It will meet quarterly to review progress and make any necessary policy decisions to guide implementation. The Committee's purview is to be long term and sector-wide, beyond just the scope of this program.
- 2.21 The Technical Secretariat will provide coordination and technical support to all justice sector institutions. Specifically, the Technical Secretariat will (i) ensure that complex reforms in different institutions are effectively linked, sequenced, managed, resourced and led, and in particular that issues of joined-up justice are properly addressed; (ii) source additional technical assistance or other support as necessary to enable institutions to implement JSRS reforms; (iii) ensure timely and appropriate monitoring and evaluation of strategic performance, and make certain that this performance is communicated to stakeholders; (iv) provide a secretarial function for the JSRS Steering Committee, ensuring that the Committee has all necessary information available to support its decisions; and (v) coordinate donor agencies supporting the justice sector, including establishment of a justice sector donor group.
- 2.22 Therefore, the objective in this area will be to create institutional and policy mechanisms for facilitating inter-institutional cooperation and coordination. *Specific tasks* include: (i) provide consulting support to work with Secretariat; (ii) procure furnishings and equipment; (iii) develop terms of reference, rules of procedure, objectives, and comprehensive set of benchmarks and performance indicators; (iv) conduct mapping of end-to-end processes (organizational and functional) of each justice institution and for assessment of cost savings; (v) supply equipment and consulting support to establish integrated information systems to assimilate, analyze and report statistics and indicators on a cross sector basis; (vi) prepare a functional and operational plan for the DPP with particular focus on coordination with the Police; (vii) develop a monitoring and evaluation (M&E) framework; (viii) provide support for undertaking baseline indicators, goals and benchmarks; (ix) develop systematic M&E plans for the overall program and for individual justice sector institutions; and (x) conduct biannual user surveys (Bar, Private Sector, Civil Society).



- 2.23 Regarding support for **coordination instances at the local level** (bottom up approach) the objective will be to foster ongoing participation of civil society in justice sector strategy and policy development. *Specific tasks* include hiring consulting support, acquiring equipment and providing training necessary to: (i) establish Criminal Justice Committees at the local level, centered on each Magistrate Court (comprising representatives of stakeholders involved in the processing of criminal justice cases and focused on improving inter-agency cooperation, communication and co-ordination at the operational level); and (ii) establish Civil Justice Committees comprised of court users and other stakeholders (attorneys, private sector, NGOs) and workshops to facilitate semiannual consultations with the JSRS Steering Committee.

**c. Subcomponent 3: Improving Access to Justice (US\$2.0 million)**

- 2.24 The purpose of this subcomponent is to improve access to justice in Guyana by enhancing citizen awareness of their rights and responsibilities and providing services to court users to facilitate legal advice and representation, as well as access to information and alternative dispute resolution mechanisms. To achieve these aims, activities to be financed under this subcomponent will include the following:
- 2.25 **Expansion of legal aid services.** *Objective:* Provide information, advice and representation to citizens, especially the poor and marginalized. *Specific tasks:* consulting services, training activities and equipment purchases will be financed in order to (i) provide expert support to develop an action plan for a nationally sustainable legal aid scheme (including citizens' legal advice offices); (ii) once the action plan has been agreed with the GOG, provide technical assistance and equipment to support the Georgetown Legal Aid Clinic as well as expansion of its services to New Amsterdam and Essequibo Coast; and (iii) provide training and material resources for three-year implementation of national legal aid scheme.
- 2.26 **Development of public legal awareness.** *Objective:* Ensure all Guyanese citizens are aware of their legal rights and responsibilities and of the services available for resolution of their disputes. *Specific tasks:* consulting services, training activities and purchase of media services will be financed to (i) develop a national legal awareness strategy and action plan, and a communications strategy for the justice sector; (ii) implement legal awareness media campaigns, and support for related consultations in collaboration with NGOs; and (iii) implement local consultations/workshop series.
- 2.27 **Support for informal justice.** *Objective:* Provide alternatives to the formal justice system, especially in rural areas and for the poor and disadvantaged. *Specific activities:* (i) develop a paralegal program including the use of voluntary social mediation workers from Village Councils, welfare officers and Justices of the Peace; and (ii) prepare a plan for introduction of community ADR (mediation) and program implementation, including training of local mediators and community NGOs.

- 2.28 **Law revision and legislative framework.** *Objective:* Enable improved access to justice—and to judicial orders and opinions—through revision of specific laws and updating of Guyana Law Reports and Laws of Guyana. *Specific tasks:* Consulting support and equipment will be provided in order to (i) reform the Legal Practitioners Act (including provisions for “no win no fee” contingency arrangements) and ADR Act; (ii) support and strengthening of the Legal Practitioners’ Committee, including training; (iii) provide expert support to the MLA for updating Guyana’s Law Reports, and consultancy services to support for the Law Revision Commission (which is to be re-established further to the policy-based component of the Program).

### C. Cost and financing

- 2.29 The total cost of the program is estimated at US\$25.2 million, consisting of a US\$15 million PBL component and a US\$10 million investment component.<sup>17</sup> The Bank will finance 99% of the costs with resources of the Fund for Special Operations (FSO), and the country will finance 1% to cover part of the financial costs of the Program. A hybrid operation has been chosen because of its advantages in supporting comprehensive reform in this sector. Indeed, investments in administrative capacity are likely to be more sustainable if accompanied by substantive reforms and government commitment pertaining to overall governance of the sector, including its policy and legal framework. The detailed program budget for the PBL and investment components, and for the three subcomponents of the investment component, is shown in the table below.

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<sup>17</sup> Out of the amount destined for investment activities, the MLA will receive no less than US\$4.6 million and the Judiciary will receive no less than 3.3 million during the execution of the Program. The Program’s Operations Manual includes a very detailed budget where these amounts are distributed between the two agencies according to investment categories (for a breakdown of the budget see [Table II-1](#)).

**Table II-2. Project Costs (in US\$ thousands)**

<b>Categories</b>	<b>IDB</b>	<b>Local</b>	<b>Total</b>	<b>%</b>
<b>1. Policy-based Component</b>	<b>\$15,000</b>	<b>\$0</b>	<b>\$15,000</b>	<b>59.4</b>
First Tranche	\$7,000			
Second Tranche	\$8,000			
<b>2. Investment Component</b>	<b>\$9,750</b>	<b>\$0</b>	<b>\$9,750</b>	<b>38.7</b>
<b>Subcomponent 1: Enhancing Institutional Capacity</b>	<b>\$4,730</b>		<b>\$4,730</b>	
1.1 Strengthening of the Judicial Services Commission	\$91			
1.2 Backlog and Delay Reduction	\$506			
1.3 Strengthening Court Administration	\$1,031			
1.4 Skills and Productivity Enhancement for Judges, Magistrates	\$939			
1.5 Amending Civil and Criminal Procedural Laws and Drafting Acts	\$410			
1.6 Physical Improvements to Courtrooms and Courthouses	\$675			
1.7 Criminal Justice Improvements	\$867			
1.8 Criminal Procedures Improvements	\$45			
1.9 Civil Procedures Improvements	\$66			
1.10 Administrative Justice	\$30			
1.11 Institutional Strengthening of MLA	\$70			
<b>Subcomponent 2: Strengthening Linkages among Justice Institutions</b>	<b>\$1,209</b>		<b>\$1,209</b>	
2.1 Sector-wide Policy Leadership, Planning and Coordination	\$1,000			
2.2 Ensuring Participation of Users and Beneficiaries	\$209			
<b>Subcomponent 3: Improving Access to Justice</b>	<b>\$2,077</b>		<b>\$2,077</b>	
3.1 Expansion of Legal Aid Services	\$428			
3.2 Development of Public Legal Awareness	\$351			
3.3 Informal Justice	\$298			
3.4 Law Revision and Legislative Framework	\$1,000			
<b>Project Coordination</b>	<b>\$1,269</b>		<b>\$1,269</b>	
PEU Staffing	\$1,017		\$1017	
Other Project Administration Costs (Office, Equip., IT)	\$252		\$252	
<b>External Audit and Evaluation</b>	<b>\$250</b>		<b>\$250</b>	
<b>Contingencies</b>	<b>\$215</b>		<b>\$215</b>	
<b>3. Financing Costs</b>	<b>\$250</b>	<b>\$232</b>	<b>\$482</b>	<b>1.9</b>
FIV (1%)	\$250		\$250	
Credit Commission		\$232	\$232	
<b>TOTAL PROGRAM COSTS</b>	<b>\$25,000</b>	<b>\$232</b>	<b>\$25,232</b>	<b>100.0</b>

### **III. PROGRAM EXECUTION**

#### **A. The borrower and executing agency**

- 3.1 The Borrower will be the Co-operative Republic of Guyana. The Executing Agency will be the Ministry of Legal Affairs. The overall responsibility for the implementation of the Program will rest on the Justice Sector Reform Steering Committee. As already described, a Technical Secretariat (TS) will also be established in the MLA for coordination and technical support to all justice sector agencies, including those directly benefited by this program (see paragraph 2.21). As such, the Technical Secretariat will function as a coordination instance and a source of technical guidance to all program activities. Those activities to be implement within the High Court will be carried out by said Court, through a Project Executing Unit as described below.
- 3.2 Two Project Executing Units (PEUs), one within the Ministry of Legal Affairs (MLA) and the other, within the Judiciary will be established to execute the activities that the Investment Component places under their respective responsibilities<sup>18</sup> (the MLA will be additionally responsible for the direct execution of activities planned for the DPP). In the case of the Policy Component, the PEU within the MLA, under the coordination of the Justice Sector Reform Steering Committee and its Technical Secretariat, and in cooperation with the Judiciary, will carry out the activities necessary for the implementation of the reforms and submit evidence to the Bank that the conditionality has been met.

#### **B. Project execution and administration**

- 3.3 The Justice Sector Reform Steering Committee through its Technical Secretariat (TS) will be responsible for overall project guidance and oversight, as well as for the supervision of annual operating plans and budgets. The TS will review the progress reports on the execution of the policy and investment components, and will interface with other institutional actors in order to facilitate the orderly implementation of the program. The TS will be responsible for ensuring effective coordination and execution of program activities. Regarding the Policy Component, the TS will be responsible for: (i) monitoring the compliance of conditionality and performance benchmarks set out in the policy and verification matrix; and (ii) reporting on compliance progress to the MOF and the Bank.
- 3.4 In relation to the Investment Component, each PEU will be responsible for: (i) coordinating the program execution; (ii) revising and presenting the annual operating plans (AOPs)<sup>19</sup>, the semiannual, midterm and final reports, and any other reports requested by the Bank during the program; (iii) monitoring

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<sup>18</sup> This execution structure is proposed on the basis of lessons learned in previous operations in Guyana, which show that setting up individual execution units in autonomous agencies is an effective mechanism to ensure project ownership.

<sup>19</sup> The AOP for the first year of project execution has been agreed with the beneficiary agencies and it will be presented to the Bank as part of the initial report.

execution performance and providing related information to the Secretariat; (iv) conducting procurement and processing contracts required for the implementation of the different subcomponents; (v) preparing and presenting disbursement requests and justification of the use of funds to the Bank's satisfaction, as well as the semiannual reports on the use of the revolving funds; (vi) preparing the annual progress reports on execution performance for submission to the MOF and the Bank; (vii) maintaining financial and accounting records related to the use of financed resources, demonstrating at any time that the funds are used for the purpose intended by the loan; (viii) keeping adequate documentation to support disbursements received (this information shall be made available for review by Bank personnel and/or external auditors); and (ix) preparing and presenting financial statements of the program to the Bank, duly certified by eligible external auditors.

- 3.5 Each PEU will be headed by a Coordinator, who will be a highly qualified professional appointed by the head of the respective agency (either the High Court or the MLA) in consultation with the Bank. Each Coordinator will hold the responsibility to act as liaison with the Bank and to ensure the coordination and consistency of their projects' activities. The PEUs will be staffed with a programme management officer, a procurement officer, a finance/accounting officer, an accounts/administration officer and a secretary/administrative assistant. Each Coordinator shall appoint the staff of the PEU in a manner consistent with IDB procedures. The loan resources will cover staff salaries.
- 3.6 An agreement between the Judiciary and the Ministry of Legal will be signed to regulate fund transfers from the latter to the former and to set forth the conditions and activities to be carried out by each entity. The agreement will contain, among other conditions, the following rules: (i) all transfers of resources from the MLA to the Judiciary will be made on a nonreimbursable basis; (ii) the Judiciary will carry out the activities under its competency in accordance with the terms and conditions set forth in the loan contract; and (iii) all other conditions in connection with procurement, auditing, maintenance; and reports. Negotiation between the agencies involved are on-going and the agreement's signing will be a condition prior to first disbursement for the investment component. Also, for the execution of the activities for strengthening the DPP, an inter-institutional agreement between the MLA and DPP will be signed. Under this agreement, the MLA's PEU will be responsible for administrative matters and day-to-day execution of the activities related to the DPP's institutional strengthening. The DPP will be responsible for technical supervision.

#### **C. Procurement of goods and services**

- 3.7 The procurement of works and goods will be carried out in accordance with the provisions set forth in document GN-2349-6 ("Policies for the procurement of works and goods financed by the IADB"), dated February 2006. International competitive bidding will be used when the cost is greater than US\$1,000,000 for works, and US\$100,000 for goods. National competitive bidding will be used for

the procurement of goods when the cost is less than US\$100,000 and for the procurement of works when the cost is less than US\$1,000,000. The selection and contracting of consultants will be carried out by each PEU in accordance with the provisions established in document GN-2350-6 ("Policies for selection and contracting of consultants financed by the IADB"), dated February 2006. For the contracting of consulting services, the quality-and-cost based selection procedure will be used, as established in the Bank's policy for consultants. The procurement of works and goods, as well as the selection and contracting of consultants, will be implemented according to the procurement plan, which will be reviewed annually.

- 3.8 Contracts for works estimated to cost more than two hundred thousand dollars (US\$200,000), and contracts for goods estimated to cost more than fifty thousand dollars (US\$50,000) will be subject to the Bank's prior review in accordance with its procedures and policies. All other contracts for the procurement of works and goods will be subject to the Bank's ex post review.
- 3.9 Similarly, contracts for the acquisition of consulting services estimated to cost more than fifty thousand dollars (US\$50,000) will be subject to the Bank's prior review in accordance with its policies and procedures. Other contracts for the acquisition of consulting services will be subject to the Bank's ex post review.

#### **D. Execution and disbursement periods**

- 3.10 **Disbursement procedure.** For the Policy Component, disbursements are programmed for the first half of 2007 and second half of 2009. Tranche release will depend on the satisfactory implementation of agreed upon policy reforms and institutional changes, as described in the Policy Matrix (see Table V-1 in Chapter V). For each tranche, the GOG will be required to submit a report to the Bank, which demonstrates that the conditions precedent to each tranche have been fulfilled, as well as to maintain an appropriate macroeconomic policy framework.
- 3.11 The Investment Component will be disbursed over a period of 48 months, beginning on the date on which the loan contract enters into effect. Two revolving funds will be established, one for each PEU. The total of the resources allocated to these revolving funds will not exceed 5% of the proceeds of the investment component. The tentative disbursement schedule is shown in the following table.

**Table III-1. Projected Annual Disbursements (US\$)**  
**Investment Component**

Source	Year 1	Year 2	Year 3	Year 4
IDB (FSO)	3,187,180	3,245,185	2,864,619	1,703,015
TOTAL	3,187,180	3,245,185	2,864,619	1,703,015
% year	22%	32.4%	28.6%	17%

- 3.12 **External audits.** The external audit of the program will adhere to the Bank's contracting procedures, terms of reference and procedures stipulated in documents AF-200, AF-400, and AF-500, and will cover the entire program. The external audit will involve annual reports submitted to the Bank by each PEU within 120 days following the close of each fiscal year. The final audit will be delivered within 120 days after the last disbursement. The terms of reference of the audit must have Bank approval and the auditors must be selected in accordance with Bank policy. The cost of the audit will be paid with the loan proceeds.
- 3.13 **Finances and account management.** The High Court and the Ministry of Legal Affairs will manage the program's finances and accounts, realizing the accounting corresponding to the activities under each of their responsibilities. To that end, each PEU must: (i) maintain an effective administrative, financial, and internal audit system; (ii) keep separate accounts for the proceeds from the Bank loan, pursuant to Article 7.01 of the General Conditions of the Loan Contract; (iii) keep detailed information for the preparation of the consolidated financial reports, in accordance with Bank procedure; (iv) keep supporting information on the use of program funds in an accessible filing system; and (v) keep proper records of the disbursement requests. Regarding the revolving funds, each PEU will be responsible for: (i) preparing the biannual revolving fund statements; and (ii) requesting revolving fund replenishments.
- 3.14 **Loan conditions.** For this operation, conditionality is conceived as part of a cycle that includes policy reform (through the policy-based component) and capacity building (through the investment component). For the *policy reform component*, disbursements will be made in two tranches of US\$5 million and US\$10 million, respectively, according to the conditions described in the Policy Matrix (see Table V-1 in Chapter V). For the *investment component*, the conditions to the first disbursement are the following: (i) evidence that the Project Execution Units have been created and staffed within the High Court and the Ministry of Legal Affairs; (ii) evidence that the JSRS Steering Committee and its Technical Secretariat have been established, staffed and made operational; (iii) evidence that the Program's Operations Manual has been adopted;<sup>20</sup> and (iv) evidence that agreements between the MLA and the Judiciary, and the MLA and DPP have been signed.
- 3.15 Once the Loan Agreement has entered into effect and the General Conditions prior to first disbursement have been met by the Borrower, it is recommend that the Board of Executive Directors authorize a special disbursement to the Borrower up to the amount of US\$300,000 chargeable to Bank resources, for purposes of implementing the Technical Secretariat and PEUs, and in order to help the Executing Agency to comply with the special conditions prior to first disbursement.

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<sup>20</sup> An Operations Manual is currently being negotiated among the institutions involved in the Program. Its finalization is expected to occur after approval of the operation.

- 3.16 Prior to the call for bids to carry out physical improvements of courtrooms contemplated in subcomponent 1 of the program, the Borrower will present to the satisfaction of the Bank, evidence of compliance of the following conditions: (i) the JSC Secretariat's governance policies and operational rules have been developed and approved; (ii) the Registrar's Office has issued an internal financial management manual (including responsibilities and procedures for budget formulation and execution, for the maintenance of satisfactory internal control, and for accounting and financial reporting) to assure the proper handling of financial resources within the Judiciary, consistent with the requirements of the Fiscal Management and Accountability Act 2003 and Regulations and Finance Circulars issued thereunder; and (iii) an internal audit unit is established in the Registrar's Office to conduct internal audits throughout the Judiciary, including in all court offices where financial resources are administered.

**E. Monitoring and evaluation**

- 3.17 The Bank will monitor the overall progress of the program. Monitoring and control of the operation will be based on the indicators identified in the Logical Framework (see Annex I).<sup>21</sup>
- 3.18 The Secretariat, which will be established from the beginning of Program execution (see paragraph 3.14), will be responsible for coordinating all monitoring and evaluation processes. This will include (i) ensuring that the PEUs keep updated and available information on their performance and on the achievement of the Program's objectives, as established by the logical framework (and providing them support to ensure that they have the appropriate data collection systems in place to track their progress in achieving the relevant performance indicators); (ii) providing technical support and training to PEU staff in the areas of project monitoring, and performance reporting based on the logical framework methodology; (iii) preparing and submitting to Justice Sector Reform Steering Committee and the Bank periodic reports on the status of the Program, including special studies as requested. The Program's Operation Manual will include mechanisms to ensure that all performance information is channeled from each of the two Project Executing Units (PEUs) to the Technical Secretariat.
- 3.19 **Program reports.** Each PEU will submit semi-annual program reports combining the financial and technical elements of the program and providing information on the following: (i) progress on program's objectives; (ii) achievement of agreed upon performance indicators; (iii) physical progress made on investment projects; and (iv) problems encountered during the implementation and adopted solutions. If, in light of the reports submitted, the

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<sup>21</sup> Both the policy-based and investment components are geared towards the same purpose and goal, as described in the logical framework, which includes indicators of outputs and outcomes resulting from both components and, therefore, substitutes the results matrix usually accompanying stand alone policy based programs. The information contained in the logical framework is complemented by a separate matrix (see Program Summary in Electronic Links Table on page ii) linking identified problems and program objectives to specific policy conditions and investment activities and their expected impact.



Bank finds the status of program execution to be unsatisfactory, the PEUs will have 30 days to present a proposal with measures to correct the situation.

- 3.20 **Midterm and final evaluations.** When 50% of the investment component proceeds have been committed, independent consultant services will be hired to provide sufficient information for a midterm evaluation that the bank and GOG will conduct jointly. Similarly, at the end of program disbursement period, consulting expertise will be hired to conduct a final evaluation to be presented to the Bank for discussion with the Government. The main objectives of these evaluations will be: (i) to analyze the results of the various components; (ii) to review compliance with the program's performance indicators, as described in the Logical Framework (see Annex I); and (iii) to check compliance with the Program's Operations Manual.
- 3.21 **Other evaluations.** The Borrower and the Executing Agencies will collect, store and retain information, indicators and parameters, including the annual plans, the mid-term review, and final evaluations, to help the Bank prepare the Project Completion Report (PCR).

#### IV. VIABILITY AND RISKS

##### A. Institutional viability

- 4.1 Institutional viability is an important challenge for all Bank projects in Guyana. As a result of one of the highest rates of emigration in the hemisphere, the human resource base and institutional capacity of the country have been eroded. This shortfall of skills affects both private and public sectors, but its greatest impact is upon the higher-skilled groups of public employees, who receive low salaries. This is reflected in a lack of adequate human resources, frequent staff turnover, and weak management systems across the public sector. Rising crime rates have accelerated the trend.
- 4.2 In the case of the proposed operation, an additional issue is that the beneficiary institutions have little demonstrated experience in executing programs. The Office of the Chief Justice is the executing agency for the Bank-financed technical cooperation (TC) "Establishment of a Commercial Court/ADR Mechanism." This TC is now proceeding satisfactorily, with creation of the Commercial Court imminent, but it has been slow to reach this point and capacity clearly needs to be further developed.
- 4.3 Given the relatively weak administrative structures of the executing agencies and their lack of experience in handling technical support programs and managing loan funds, two main approaches have been adopted in the design of this operation. First, capacity building in the institutions responsible for implementation of the reform program is strongly emphasized. Intensive training and improvement of the working environment should help to improve the quality of human resources in these institutions, while greater influence or autonomy over

the management of human resources should also help to mitigate problems of staff turnover. Second, execution mechanisms built into the program will provide solid support to the agencies involved. These mechanisms include a strong coordination instance at the Technical secretariat and solid and independent PEUs that will support each agency during execution, and a flexible operating modality with continuous monitoring based on annual operational plans.

- 4.4 Finally, another factor which should help to ensure institutional viability is the broad sense of program ownership that exists. The JSRS responded to a long-standing desire for improvements in the justice sector and was prepared on the basis of a far-reaching consultation exercise involving all institutions in the justice sector, as well as other stakeholders including civil society and the private sector. In addition to extensive individual interviews, seven workshops and two seminars (attended by approximately 200 stakeholders) were held around the country, all with a view to ensuring that development of the Strategy was as participatory as possible. A high level of cross-sectoral consensus has been the result.

## **B. Socioeconomic viability**

- 4.5 Although difficult to quantify, the socioeconomic benefits of this project are expected to be highly significant. The most direct impact will be through the achievement of productivity gains within the justice sector. The agencies involved have not hitherto benefited from any comprehensive external financial and technical support, and there is excellent potential for improved service delivery. Moreover, in the design of the program activities have been prioritized in function of the stakeholders' perception of costs relative to impact. Particular emphasis is thus being placed on cost-free activities where policy, administrative or procedural decisions and actions can advance reforms without the need for additional expenditure, and on cost savings through the elimination of inefficient and unnecessary processes.
- 4.6 Within the judiciary, efficiency gains would result principally from the modernization and streamlining of court procedures; strengthened case management systems; improved court administration and greater judicial influence over the management of administrative staff; and enhanced productivity of judges and magistrates resulting from specialized training, stronger ethical and disciplinary rules and greater provision of legal resources. The more efficient handling of cases will also be facilitated by the expansion of lower-cost alternative dispute resolution and mediation services. In other sector agencies, improved sentencing and bail guidelines are expected to alleviate pressure upon the prison system, while the gradual elimination of police prosecutions will free up considerable resources within that organization, more than offsetting the required expansion in DPP operations. Finally, at a sector-wide level, the emphasis will be upon achieving cost savings through the rationalization of procedures and pooling of resources, and upon the introduction of integrated, sector-wide, outcome-oriented budgeting so that all resources for the sector are rationally allocated across sector institutions.

- 4.7 Given the low budget currently allocated to the justice sector, these productivity gains are not expected to result in direct cost savings for the government, but will instead translate into enhanced service output. A simplified cost/benefit assessment has been used to estimate the potential economic value of these direct efficiency gains.<sup>22</sup> On the basis of a number of reasonable assumptions regarding the recurrent cost implications of the operation, it is estimated that in order for the Government to break even on the investment component of the operation, productivity gains across the justice sector as a whole would need to reach just under 7% annually. Given the current potential for heightened efficiency in the sector and the significant scale of the investments being made, this seems more than likely.

**Table IV-1. Break-even analysis  
(Direct Costs and Benefits, US\$)**

Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
<b>A. Total costs</b>	1,180,000	1,685,000	1,945,000	837,000	87,000	87,000	87,000	87,000	87,000	87,000	87,000	87,000	87,000	87,000	87,000
A.1 Program Investments	2,000,000	3,000,000	3,000,000	2,000,000											
A.2 Interest payments		20000	50000	80000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	200,000	200,000	200,000	200,000
A.3 Operational costs				182,000	187,460	193,084	198,876	204,843	210,988	217,318	223,837	230,552	237,469	244,593	182,000
<b>B. Total benefits</b> (Assumed productivity gains by justice sector employees of 7% per year)			1,568,350	1,615,401	1,663,863	1,713,778	1,765,192	1,818,147	1,872,692	1,928,873	1,986,739	2,046,341	2,107,731	2,170,963	2,236,092
<b>C. Net benefits (B-A)</b>	-2,000,000	-3,020,000	-1,481,650	-464,600	1,381,863	1,426,318	1,472,108	1,519,271	1,567,849	1,617,885	1,669,421	1,622,504	1,677,179	1,733,494	1,791,499
<b>D. Viability indicators</b>															
D.1 Net Present Value <sup>1</sup>	\$292,174														

1. Discount rate 12%.

- 4.8 Direct efficiency gains within the sector will represent only a small part of the project benefits, however. Instead, the most significant impact is expected through positive externalities for private sector investors and Guyanese society as a whole. Although court user fees are expected to rise under the program from their current negligible levels, improved service delivery will more than offset this, lowering the indirect costs to those firms and individuals already making use of the justice sector, and encouraging recourse to justice by current non-users of the system. Accordingly, the program will help to improve both social justice and the allocation of resources in the private sector.
- 4.9 With respect to the latter, almost half of companies with recent experience of the court system have identified it as a major or severe obstacle to their business operations (see paragraph 1.1). The reduction of backlogs and delays targeted under the program, together with the enhanced predictability and credibility of court decisions, should help to revert the recent downward trend in private investment with a consequent positive impact upon economic growth. More effective prosecution capacities should also act as a greater deterrent to crime. Crime is also viewed by firms as major obstacle to their business activities, and its

<sup>22</sup> The expected investment period (or cost) of the project will extend over 4 years, while benefits have been projected over a 15-year period. It is assumed that benefits will be felt from the third year of project implementation onwards.

impact upon the quality of life in Guyana is substantial. Anecdotal evidence suggests that high rates of crime are fuelling the problem of emigration among skilled workers, and this has become a serious hindrance to private sector development and economic growth generally.

**C. Financial viability**

- 4.10 The Bank will provide 100% financing for the investment activities under this program, eliminating the need for counterpart financing. Implications for the government finances center upon the recurrent costs required to sustain the investments into the long term, and debt-servicing costs related to the Bank loan. Net recurrent costs across the justice sector as a whole are estimated at just over \$200,000 per year on average in the 10 years subsequent to program completion. Recurrent costs within the judiciary are expected to be more than covered by increased court user fees, allowing additional room for an increase in the judicial budget without implications for central government finances. Remaining recurrent costs amount to just 0.025% of current non-financial public sector spending. With respect to debt servicing costs, this operation has already been incorporated into the latest debt sustainability analysis carried out under the IMF-supported PRGF program. Although the country remains at moderate risk of debt distress, the program has been found to be compatible with the limits for indebtedness established under the PRGF program.

**D. Environmental impact**

- 4.11 It is expected that the program will have no direct environmental impact, as all initiatives are limited to policy reform in the justice sector area. As the program will include activities directed at increasing access to justice by poorer segments of society, it will have a direct and positive social impact. This operation was examined and approved by the Committee of Environmental and Social Impact on March 10, 2006 without observations.

**E. Benefit and beneficiaries**

- 4.12 The purpose of this program is to improve the dispensation of justice through more efficient, effective and equitable service delivery. This will be achieved in three main ways: **first**, through enhancements to the efficiency of individual justice sector institutions, including expedited court processes and a reduction in court case backlogs and delays; **second**, through the strengthening of linkages among justice sector institutions, helping to eliminate wasteful processes and introduce cooperative, joined-up policy, planning and resource allocation processes; and **third**, through improved access to justice services among disadvantaged groups and greater availability of public information on legal rights and proceedings. The direct beneficiaries of these improvements will be the users of the justice system, who will enjoy quicker and more effective resolution of their cases. Taxpayers are also expected to benefit in the medium- to long-term from a more cost-effective delivery of justice services.

- 4.13 The overarching goal of the program is to enhance the investment climate and rule of law in Guyana through improved public sector governance. To the extent that the program is successful in achieving this goal, the ultimate beneficiaries will be all Guyanese citizens, who will benefit from reduced crime rates and improved economic prospects stemming from higher rates of investment.

## **F. Risks**

- 4.14 As part of project preparation, a risk analysis has been conducted (technical files). This analysis draws on information obtained during the extensive consultation process that was carried out for the JSRS. Risks associated with this program are also included in the program's logical framework. In addition to the institutional weaknesses discussed in section A, the most significant risks relate to (i) the forthcoming national elections, (ii) ongoing political resolve, and (iii) sustainable financing.
- 4.15 Elections will be held in Guyana during 2006. This could result in a diversion of efforts from implementation of the program as it starts execution with the resulting loss of momentum. In order to minimize this risk, the public awareness campaign could include a re-launching of the strategy to regain support and commitment from the main involved institutions. Also, in the event of a change in government or loss of parliamentary majority by the current ruling party, there could be a risk that support for the various pieces of legislation envisioned in the program would be compromised. This risk is mitigated by the participatory manner in which the Program was designed. As a result, a high level of cross-institutional and cross-party consensus has been demonstrated in relation to the alluded legislation (and indeed, all elements of the Program) during that consultative process.
- 4.16 The complex problems of justice sector reform require coordinated and sustained actions in a number of areas, some of them related to the political milieu. The program will span several institutions in two different branches of government (the Executive and the Judiciary), raising the possibility of slow-paced execution or even resistance to the creation of enhanced linkages or, indeed, to the more independent functioning of some institutions (for example, the level of financial autonomy for the Judiciary that the Program seeks has proved to be a challenging issue, although one that was ultimately resolved in a satisfactory manner). This risk is mitigated by the high visibility the sector reform initiatives will have due to communication campaigns and the resulting political incentives for cooperation, as well as by effective leadership through the Justice Sector Reform Steering Committee.
- 4.17 Another risk would be an inadequate future availability of funding for justice sector institutions and the resulting failure to sustain capacity improvements initiated under the program. In the case of the Judiciary, this risk should be mitigated by expected increases in court user fees, which will provide a strong argument for enhancing budget allocations to the Judiciary. Also, it is envisioned

that after linkages among the various justice institutions are strengthened, sector budget submissions could be developed, thus reinforcing the case for adequate funding.

## **V. POLICY MATRIX**

- 5.1 The disbursement conditions for each tranche of the policy-based component are detailed in the following table.

Table V-1. Policy Conditionality Matrix			
Objectives	Previous actions taken by the Borrower	First Tranche	Second Tranche
<b>Macroeconomic Framework</b>			
Macroeconomic stability		The macroeconomic framework of the Borrower is consistent with the objectives of the program.	The macroeconomic framework of the Borrower is consistent with the objectives of the program.
<b>A. Service Delivery</b>			
To enhance the capacity of justice sector institutions to deliver services efficiently and effectively	<ul style="list-style-type: none"> <li>• Case audit undertaken in the High Court leading to the reduction of backlogs by more than 50 percent.</li> <li>• Updating process of High Court rules for civil cases under way.</li> <li>• High Court Mediation Centre 2-year pilot successfully completed (October 2005).</li> <li>• Creation of a Commercial Court division of the High Court advanced (expected to start operations in 2006).</li> <li>• Improvements made to the High Court library.</li> <li>• Staff appraisal system ongoing within the High Court</li> <li>• Study tours undertaken by judicial officers.</li> </ul>	A.1.1. The Judicial Service Commission (JSC) Rules and Regulations are drafted and agreed by Cabinet. (JSC Rules and Regulations include, <i>inter alia</i> : code of conduct and ethics for judges and magistrates, sanctions provisions, mechanisms for filing of complaints, timeliness guidelines, policies for establishment and operations of a JSC Secretariat.	A.1.2. JSC Rules and Regulations are approved by Parliament. A.1.3. Evidence that approved Budgets allocate resources that guarantee the functioning of the JSC Secretariat from the moment of its creation.  A.1.4. JSC assumes human resource management (including recruitment and discipline) of court administration staff from the Public Sector Commission, subject to its constitutional feasibility as determined by a previous legal review.
		A.2.1 The Attorney General's Office after consulting with Judiciary and Bar, has submitted to Cabinet draft amendments to: Summary Jurisdiction (Petty Debt) Act; Summary Jurisdiction (Magistrates) Criminal Law (Procedure) Acts; Summary Jurisdiction (Offences) Act; Criminal Law (Offences) Act; High Court Rules; and Contempt of Court Act. A.2.2. Juvenile Offenders Act and Training Schools Act drafted.	A.2.3. Amendments to Summary Jurisdiction (Petty Debt) Act; Summary Jurisdiction (Magistrates) and Criminal Law (Procedure) Acts; Summary Jurisdiction (Offences) Act; and Criminal Law (Offences) Act approved by Parliament and enacted. High Court Rules approved by Parliament; and Contempt of Court Act enacted. A.2.4. Juvenile Offenders Act and Training Schools Act enacted.

Table V-1. Policy Conditionality Matrix			
Objectives	Previous actions taken by the Borrower	First Tranche	Second Tranche
		<p>A.3.1. A framework is approved by Ministry of Finance outlining the specific mechanisms which will be implemented to ensure greater accountability, efficiency and autonomy in relation to the approval of the Judiciary's budget and its expenditure management.</p> <p>A.3.2. The MLA initiates a legal study to identify the necessary legal instruments for improved financial management of the judiciary consistent with Article 122A of the Constitution.</p>	<p>A.3.3. Framework is being implemented.</p> <p>A.3.4. The legal instrument(s) providing for the new budget approval process and expenditure management procedures duly approved by Parliament.</p>
<b>B. Linkages among institutions</b>			
To strengthen linkages among justice sector institutions	<ul style="list-style-type: none"> <li>• Consultation process for drafting the Justice Sector Reform Strategy started and led by Government.</li> <li>• New strategic plan being developed by Police.</li> <li>• New Police initiative on domestic violence, drug crime and community policing.</li> </ul>	<p>B.1.1. Justice Sector Reform Steering Committee (apex policy making body) established by Executive Order and its TORs (including rules of procedure, objectives, benchmarks) agreed and sanctioned by its members.</p> <p>B.1.2. Justice sector reform strategy and plan (2006-2010) approved by Cabinet and publicly announced.</p> <p>B.1.3. Technical secretariat to Justice Sector Steering Committee established, staffed and operational.</p>	<p>B.1.4. Monitoring and Evaluation framework for the JSRS has been developed and approved by the Steering Committee. From the moment of the Secretariat's establishment, biannual monitoring reports assessing progress of reform implementation plans against goals and targets have been consistently completed.</p>



Table V-1. Policy Conditionality Matrix			
Objectives	Previous actions taken by the Borrower	First Tranche	Second Tranche
			B.2.1 The Prison Reform Strategic Implementation Plan and, subsequent to comprehensive consultation process, the Police Reform Strategic Implementation Plan have been approved by Cabinet. Monitoring reports assessing compliance with police and prison reform implementation plans according to established goals and targets have been published annually since the plans approval.
		B.3.1. Plan approved by Cabinet for strengthening the functional and operational relationship between DPP and Police, including sequenced plan for DPP assuming responsibility for indictable cases and narcotics cases). B.3.2. Amendments to Evidence Act drafted by MLA.	B.3.3. Compliance with action plan for DPP.  B.3.4. Amendments to Evidence Act enacted.
C. Access to Justice			
To improve access to justice for all	<ul style="list-style-type: none"><li>Amerindian Bill (currently in Parliament) acknowledging the role of Village Councils in dispute resolution presented to Parliament</li><li>Social workers trained by Probation Service.</li></ul>	C.1.1. Subsequent to stakeholder consultations (i.e., Bar, judiciary) new Legal Practitioners Act drafted by Ministry of Legal Affairs (including, <i>inter alia</i> : qualification requirements, disciplinary guidelines, contingency fee provisions, and granting authority to judges to refer cases to Legal Practitioners Committee). C.1.2. Law Revision Commission re-established.	C.1.3. Legal Practitioners Act enacted. C.1.4. New UNCITRAL-based Alternative Dispute Resolution Act enacted to replace 1931 Arbitration Act. C.1.5. Subsequent to an approved plan completed by the Law Revision Commission, the Laws of Guyana have been updated and published up to and including the year 2006.

**Logical Framework**  
**Modernization of the Justice Administration System (GY-L1009)**

Narrative Summary	Indicators	Means of Verification	Assumptions
<b>Goal</b>			
G1. To enhance the investment climate and citizens rights enforcement through improved public sector governance.	<p>Five years after the completion of the program:</p> <ul style="list-style-type: none"> <li>Less than 35% of court users consider the legal system to be a major or very severe obstacle to doing business. <u>Baseline</u>: In 2005, 47% of court users considered the legal system to be a major or very severe obstacle to doing business (<i>World Bank Investment Climate Assessment</i>).</li> <li>Less than 20% of Guyanese firms consider crime, theft, and disorder to be a major or very severe obstacle to doing business. <u>Baseline</u>: In 2005, 30% of Guyanese firms considered crime, theft, and disorder to be a major or very severe obstacle to doing business (<i>World Bank Investment Climate Assessment</i>).</li> </ul>	<ul style="list-style-type: none"> <li>World Bank Investment Climate Assessment.</li> </ul>	<ul style="list-style-type: none"> <li>Political commitment to the reforms introduced by the program is sustained.</li> <li>Macroeconomic stability maintained.</li> </ul>
<b>Purpose</b>			
P1.To improve the dispensation of justice through more efficient, effective and equitable service delivery.	<p>Two years after the completion of the program:</p> <ul style="list-style-type: none"> <li>Clearance rates (cases disposed of/cases filed in a year) are higher than 80%. <u>Baseline</u>: (i) Within the Magistrates Courts, in 1998, the clearance rate was 33% for civil cases and 50% for criminal cases (ii) In the Court of Appeal, in 1998, 31% of the civil cases filed were heard and 69% of the criminal cases were heard (<i>Surveys of Users and Providers of Justice Sector Service, Caribbean Justice Sector, Volume III, CGCED, 2000</i>)<sup>1</sup>.</li> <li>The proportion of successful criminal prosecutions is at least 25%. <u>Baseline</u>: In 2005, 10% of the criminal prosecutions were successful (<i>JSRS, January 2006</i>).</li> <li>The proportion of successfully settled cases/cases referred to mediation is at least 25%. <u>Baseline</u>: Since October 2003, 12% of the referred cases have been successfully settled by the Mediation Center at the High Court (<i>Mediation Center Report, October 2005</i>).</li> </ul>	<ul style="list-style-type: none"> <li>Final Evaluation - Case flow indicators can be calculated based on the Registrar's reports.</li> <li>Final Evaluation and Registrar's reports.</li> <li>Final Evaluation and Mediation Center Report.</li> </ul>	<ul style="list-style-type: none"> <li>Political commitment to the Justice Sector Reform Strategy continues after elections.</li> <li>The justice sector has adequate resources to perform its functions.</li> <li>Legislative changes are approved by Parliament.</li> </ul>

<sup>1</sup> The Caribbean Group for Cooperation in Economic Development (CGCED) survey (2000) covers ten countries including Guyana, and provides detailed quantitative and qualitative feedback on the perceptions of users and providers regarding the efficiency, effectiveness and accessibility of services from a wide range of justice sector institutions. The 2000 survey provided the baseline for the Justice Sector Reform Strategy.

**Logical Framework**  
**Modernization of the Justice Administration System (GY-L1009)**

Program Components	Project Outputs <sup>2</sup>	Means of Verification	Assumptions
<b>C1. Institutional Capacity Enhanced</b>	<p><b><u>Policy-Based Component</u></b> (A) After first tranche, revised and drafted legal framework to enhance service delivery, including: a framework to ensure greater autonomy to the Judiciary in relation to the approval of its budget and the management of its expenditures. (B) After second tranche, revised and approved legal framework to enhance service delivery, including: (i) judicial service commission policies, rules, and regulations; (ii) high court civil procedure rules; (iii) code of conduct and ethics for judges/magistrates; (iv) civil and criminal procedural laws.- JSC operational and functioning as per new policies, rules, regulations; and (v) a legal framework for budget autonomy.</p> <p><b><u>Investment Component</u></b></p> <ul style="list-style-type: none"> <li>• By the end of the program, 100% reduction of backlogged cases. <u>Baseline:</u> By the end of 2005, the backlog currently stood at about 12,000 cases (<i>JSRS, January 2006</i>).</li> <li>• New internal rules and mechanisms are established to ensure greater judicial accountability. By 12 months: <ul style="list-style-type: none"> <li>○ JSC Secretariat's governance policies and operational rules have been developed and approved;</li> <li>○ the Registrar's Office has issued an internal financial management manual to ensure the proper handling of financial resources within the Judiciary; and</li> <li>○ an internal audit unit is established in the Registrar's Office to conduct internal audits throughout the Judiciary.</li> </ul> </li> <li>• New case management procedures introduced in High Court &amp; Magistrate Courts. <ul style="list-style-type: none"> <li>○ By 12 months, High Court is implementing the new procedures.</li> <li>○ By the end of the program, the new procedures are fully operational throughout the entire court system.</li> </ul> </li> <li>• Implementation of modern MIS and accounting system. <ul style="list-style-type: none"> <li>○ By 12 months a modern MIS is designed.</li> <li>○ By 24 months the system is fully implemented in the High</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Official Gazette.</li> <li>• Annual program reports.</li> <li>• Annual program reports and Registrar's reports.</li> <li>• Annual program reports based on (i) Registrar's reports; (ii) consultants' report; and (iii) training evaluation reports.</li> </ul>	<ul style="list-style-type: none"> <li>- Political commitment to the Justice Sector Reform Strategy.</li> <li>- Policy commitments are fulfilled in a timely manner.</li> <li>- Justice sector institutions are willing to coordinate.</li> <li>- Justice sector employees have a favourable attitude towards change.</li> <li>- The justice sector is able to retain trained staff.</li> <li>- Budgeted financial resources are made available to the sector in a timely manner.</li> </ul>

<sup>2</sup> Timelines measured from the date of program's eligibility.

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	<p>Court.</p> <ul style="list-style-type: none"> <li>○ By the end of the program, the system is fully implemented throughout the entire court system.</li> </ul>		
	<ul style="list-style-type: none"> <li>• New human resources management system in place in High Court Registry.</li> </ul> <p>By 24 months design and approval of HR policies and programs (including reorganization, development of job descriptions and performance standards, and training and continuing education for court staff).</p>	<ul style="list-style-type: none"> <li>• Annual program reports, based on (i) Registrar's reports; (ii) consultants' report; and (iii) training evaluation reports.</li> </ul>	
	<ul style="list-style-type: none"> <li>• Functional and operational reorganization of DPP. <ul style="list-style-type: none"> <li>○ By 12 months the functional and operational reorganization of DPP is designed.</li> <li>○ By 24 months the DPP has been reorganized.</li> </ul> </li> <li>• DPP and police prosecutors involved in the prosecution of criminal offences trained. <ul style="list-style-type: none"> <li>○ By 12 months 100% of DPP is trained in the prosecution of indictable cases and narcotics.</li> <li>○ By the end of the program, 100% of the DPP and police officers are trained in all other criminal offences.</li> </ul> </li> <li>• Continuing education for judges and magistrates. <ul style="list-style-type: none"> <li>○ By 36 months at least 80% of the judges and magistrates have participated in continuing education programs.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Annual program reports based on consultants' reports.</li> <li>• Annual program reports, based on (i) administrative data from police and (ii) training evaluation reports.</li> <li>• Annual program reports, based on (i) Registrar's reports and (ii) training evaluation reports.</li> </ul>	
<b>C2. Linkages among Institutions Strengthened</b>	<p><b><u>Policy-Based Component</u></b></p> <ul style="list-style-type: none"> <li>• <u>(A) After first tranche</u>, revised and approved legal framework to strengthen linkages among institutions, including: (i) the Steering Committee; (ii) the police reform strategic plan; (iii) the prison reform strategic plan; and (iv) the DPP-police relationship functional and operational plan. <u>(B) After second tranche</u>, (i) the evidence act is revised and approved; (ii) the monitoring and evaluation framework is designed, approved and the first biannual report is completed; and (iii) the phasing out of prosecution of indictable cases and narcotic cases by the police is under way.</li> </ul> <p><b><u>Investment Component</u></b></p> <ul style="list-style-type: none"> <li>• Mapping of end-to-end processes of each justice institution. <ul style="list-style-type: none"> <li>○ By 18 months there is a mapping of at least 50% of the justice sector processes.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Official Gazette.</li> <li>• Annual program reports, based on consultants' reports.</li> </ul>	

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	<ul style="list-style-type: none"> <li>○ By 36 months there is mapping of the entire sector.</li> <li>• By 12 months, the monitoring and evaluation framework for JSRS implementation is in place.</li> </ul>		
<b>C3. Access to Justice Improved</b>	<p><b><u>Policy-Based Component</u></b></p> <ul style="list-style-type: none"> <li>• (A) After first tranche, law revision commission re-established.</li> <li>• (B) After second tranche, revised and approved legal framework to improve access to justice, including: (i) the legal practitioners act and (ii) the alternative dispute resolution act.</li> </ul> <p><b><u>Investment Component</u></b></p> <ul style="list-style-type: none"> <li>• Development and implementation of partnerships for community ADR services. <ul style="list-style-type: none"> <li>○ By 24 months there is a list of standards approved by the Ministry of Legal Affairs (MLA).</li> <li>○ By 36 months there is a directory of mediators approved by the MLA.</li> </ul> </li> <li>• Legal aid services. By the end of the program, there is a functioning legal aid clinic in New Amsterdam and Essequibo Coast.</li> <li>• Public legal awareness. <ul style="list-style-type: none"> <li>○ By 12 months the national legal awareness strategy and the communication strategy are designed.</li> <li>○ By 24 months the legal awareness media campaign is implemented.</li> </ul> </li> <li>• Law reports. By the end of the program 100% of the law reports are updated.</li> </ul>	<ul style="list-style-type: none"> <li>• Official Gazette.</li> <li>• Annual program reports, based on (i) reports from community ADR organizations; and (ii) consultants' reports.</li> <li>• Annual program reports based on consultants' reports.</li> <li>• Annual program reports based on consultant's reports.</li> <li>• Annual program reports based on consultants' reports.</li> </ul>	

DOCUMENT OF THE INTER-AMERICAN DEVELOPMENT BANK

PROPOSED RESOLUTION DE-\_\_\_/06

Guyana. Loan \_\_\_\_/SF-GY to Co-operative Republic of Guyana  
Modernization of the Justice Administration System

The Board of Executive Directors

RESOLVES:

That the President of the Bank, or such representative as he shall designate, is authorized, in the name and on behalf of the Bank, to enter into such contract or contracts as may be necessary with the Co-operative Republic of Guyana, as Borrower, for the purpose of granting it a financing to cooperate in the execution of the modernization of the justice administration system program. Such financing will be for an amount of up to US\$25,000,000, or its equivalent in other currencies, except that of Guyana, which are part of the resources of the Bank's Fund for Special Operations ("FSO"), and will be subject to the Financial Terms and Conditions and the Special Contractual Conditions of the Project Summary of the Loan Proposal.

LEGIII/GY-734885-06  
GY-L1009