

STRENGTHENING SYSTEM FOR PROPERTY RIGHTS

(MIF/TC-95-07-25-5)

EXECUTIVE SUMMARY

BENEFICIARY:	Government of Guyana												
EXECUTING AGENCY:	Ministry of Legal Affairs												
OBJECTIVES:	To encourage higher levels of financial intermediation by improving the legal, institutional and organizational framework for secured lending.												
DESCRIPTION:	The proposed technical cooperation would be used to: (a) prepare for presentation to the legislature amendments to existing laws, in particular the Bills of Sale Act, Companies Act, Deeds Registry Act and the laws of evidence and related statutes; and (b) strengthen the institutional capacity and improve the services provided by the Deeds Registry.												
ENVIRONMENTAL IMPACT:	The Technical Review Group reviewed this Donors Memorandum August 16 1999 approved it with no objections.												
PROJECT COST AND FINANCING:	<table><tr><td>Window I Grant:</td><td></td><td></td></tr><tr><td>MIF</td><td>US\$</td><td>940,000</td></tr><tr><td>Beneficiary</td><td>US\$</td><td>415,000</td></tr><tr><td>Total</td><td>US\$</td><td>1,355,000</td></tr></table>	Window I Grant:			MIF	US\$	940,000	Beneficiary	US\$	415,000	Total	US\$	1,355,000
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Beneficiary	US\$	415,000											
Total	US\$	1,355,000											
EXCEPTIONS TO BANK POLICIES:	None.												
SPECIAL CONTRACTUAL CONDITIONS:	Before first disbursement, the Government of Guyana will provide evidence that sufficient counterpart budget resources will be made available.												
PROCUREMENT	International competitive bidding will be compulsory for purchases of goods in excess of US\$250,000.												

I. COUNTRY AND PROJECT ELIGIBILITY

- 1.1 Guyana is eligible for all forms of MIF financing as declared by the MIF Donors Committee on November 2, 1995. The financing of this project is compatible with the MIF objective of fostering increased private sector participation in the economy and is eligible for grant funds from the Technical Cooperation Facility.

II. BACKGROUND

A. Introduction

- 2.1 A necessary condition for economic growth is a well functioning financial market. The purpose of this Program is to increase financial intermediation by improving the legal and administrative framework for secured transactions.

B. The Institutional/Organizational Framework

- 2.2 The process for registering property and mortgages in Guyana is time consuming, expensive and unreliable. This is partly the result of the **legal/institutional framework**. In many cases it is obsolete due to the use of both Roman-Dutch law and British statutory and common law. This legal framework was established when property owners were a minority and when secured lending occurred among a small number of individuals. Within a modern economy, this type of legal framework leads to inefficiencies.
- 2.3 The performance of key **organizations** engaged in the registration of titles is another major source of inefficiency. Administrative problems and lack of resources in the Deeds Registry, the government agency in which secured transactions are registered, and in the Land Court, where disputes between private landowners are arbitrated, present major obstacles to efficiency. Administrative delays in processing title documents and secured transactions often occur due to inefficient document processing. Salaries at the Deeds Registry are low and working conditions are inadequate, and therefore it is difficult to attract and retain qualified employees. Records in the Deeds Registry are kept in a vault and in numerous file cabinets throughout the Registry building, without the benefit of modern or computerized search and retrieval mechanisms. In addition, important documents are deteriorating because of humid conditions and they are not fully protected from tampering.
- 2.4 These problems make the creation, notification and enforcement of security interests difficult. This difficulty is reflected, in part, in the amount of credit provided by the financial system, which has averaged only about one-third of total deposits. If the legal and administrative problems that constrain secured lending were reduced, lending could increase and economic growth would accelerate.

- 2.5 In February 1999, the Deeds Registry Authority Act was enacted. The Act has two main features. First, it makes it possible to pay competitive salaries to the Registry staff by exempting them from the Public Service Commission salary structure. Second, the Registry will be able to retain collected fees to meet expenses that are within the approved budget. Other related laws, however, must be reformed to modernize the system for bankable property rights.

C. Other Donor-Supported Activities.

- 2.6 The Bank's Agricultural Sector Loan contains reforms aimed at improving the productivity of agriculture in Guyana. A Technical Cooperation program within the Agricultural Sector Loan (ATN/SF-5098-GY), combined with a program funded by Britain's Department for International Development (DFID), is providing assistance to perform parcel surveys, clarify land tenure, establish the Lands and Surveys Commission and strengthen its technical capacity. As part of the agricultural loan the property rights adjudication and land titling capacity of the Land Court will be strengthened. In addition, the Bank's Financial Sector Reform Program (956/SF-GY), which was approved in August 1995, is supporting a comprehensive reform of the financial sector.

III. **PROJECT OBJECTIVES, BASIC COMPONENTS AND ENVIRONMENTAL IMPACT**

A. Project Goal and Purpose.

- 3.1 The **goal** of the project is to encourage higher levels of financial intermediation. The **purpose** is to improve the legal framework and administrative procedures for secured transactions in moveable and immovable property, and to enhance the physical security of records. By correcting the legal and administrative inefficiencies inherent to the property registry system, it is expected that the effects of the operation will be particularly beneficial to small borrowers. These small borrowers, even when they have collateral, are effectively excluded from being considered for bank loans because the very high transaction costs commercial lenders face when registering their interest in the collateral.

B Basic Components.

- 3.2 The Project consists of three components: (1) Improvement of the Legal Framework; (2) Strengthening of the Deeds Registry; and the security and preservation of property rights records; and (3) Project Management. Both the Legal Framework and the Deeds Registry components have outreach elements to ensure that the processes of modifying the legal framework and Deeds Registry procedures are highly participatory and that customers and stakeholders are able to provide inputs to the maximum extent possible. The three project components are summarized below.

Component 1: Improvement of the Legal Framework (US\$230,000)

3.3 In order to facilitate secured lending practices, the legal framework for secured transactions for movable and immovable property must be amended. The project would include:

- ☐ Reviewing the legal framework for secured transactions in movable and immovable property and developing an Action Plan for reform. Laws that will be analyzed include the Deeds Registry Act, Bills of Sale Act, laws of evidence, and other related laws identified in the Action Plan
- ☐ Consulting with major stakeholders and customers to ensure that reform proposals will receive adequate support.
- ☐ Streamlining procedures for creating security interests in movable and immovable property.
- ☐ Revising the existing notification procedures for perfecting a security interest in movable and immovable property. This would include permitting the notification to take place in daily newspapers and taking measures to make it more difficult to raise spurious objections.
- ☐ Modifying the procedures for enforcement of movable security interests, taking into consideration the interests of both borrowers and lenders.
- ☐ Carrying out seminars with stakeholders and potential customers to explain the nature of the reforms. Audience would include lawyers, bankers, businessmen and legislators.

Component 2: Strengthening of the Deeds Registry (US\$1,065,000)

3.4 The project will support activities to strengthen and approve the services provided by the Deeds Registry offices in Georgetown and New Amsterdam. These activities will include:

- ☐ Streamlining administrative procedures for the transfer of interests in movable and immovable property, including the creation and perfection of security interests.
- ☐ Implementing training and staff evaluation programs for existing and new staff members.
- ☐ Designing and carrying out seminars with stakeholders and potential customers. Audience would include lawyers, bankers, businessmen and legislators.

- Increasing salaries of Deeds Registry staff to more competitive levels. Increases will follow recommendations of the management consulting firm that will be hired under the project. These salary increases will be paid entirely by the G
- Modernizing and computerizing property recording and registration equipment, and data storage capacity.
- The security and preservation of property rights records. The computer equipment that is required to implement the project can not be installed without some modifications of those sections of the Deeds Registry building where the new equipment will be installed. The physical improvements include an upgrade of the existing electrical system and the establishment of a temperature controlled room for the network server. Additionally, the project contemplates the improvement of the system for filing paper records and the transfer of archival type records to a separate location. Both of these locations require improvements in order to safeguard the safety of records against breaches of security, and other hazards and to reduce humidity levels to halt the further deterioration of existing paper records. Given the very restrictive fiscal situation in Guyana and the need to stay within the limits of the targets established in the IMF program, it is not possible for the GOG to increase its cash contribution to this operation to meet these expenditures. The Project Team therefore proposes that the MIF finance 70% of these expenditures, which amounts to about US\$ 77.000.

Component 3: Project Management (US\$60,000)

- 3.5 A baseline survey of Deeds Registry users will be carried out as soon as the Project is approved. Twelve months after the consulting firm is hired a second survey will be carried out to evaluate progress on both a quantitative and qualitative basis.
- 3.6 An architect will be engaged to monitor performance in securing files and computer equipment. Additionally, consultants will be engaged to ensure that the computer systems installed meet technical and security standards.
- 3.7 A mid-term evaluation will be carried out using project resources.

C. Environmental Impact

- 3.8 The main Project activities are technical assistance, training, outreach and equipment, and none of these are expected to have any impact on the environment. A very small civil works component is also included but this is limited to introducing minor modifications to an existing building to ensure the safety of records and equipment.

- 3.9 A positive environmental impact of the Project will result from the computerization of land records and information on land rights. By improving the accessibility of these records the Project will facilitate the enforcement of existing land use and development controls by the appropriate government agencies.

IV. EXECUTING AGENCY AND MECHANISM, PROJECT READINESS, AND DIRECT BENEFICIARIES

A. Executing Agency and Mechanism

- 4.1 The Ministry of Legal Affairs will be the executing agency for the Project and will act as the focal point of execution. For Component 1, Improving the Legal Framework, a firm or consortium that would include international and local lawyers, will be contracted. The firm will prepare the first draft law to amend the existing legal framework. This initial draft will be reviewed by representatives of the various constituencies and then submitted to international counsel for review. The draft bill will be presented to the Chief Parliamentary Counsel and to Cabinet and the Legislature for approval. The draft law will include regulations required for the successful implementation of the amendments.
- 4.2 The Deeds Registry Act of 1999 increases the autonomy of the Registry, giving it greater budgetary autonomy and freeing it from the salary structure established by the Public Service Commission. The Project team held discussions with lenders who indicated that they would be prepared to pay much higher fees if Registry services were improved. In order to create an environment where services can be improved to justify higher fees, administrative procedures must be modernized, qualified staff must be hired and a computerized system with appropriate databases must be installed.
- 4.3 To ensure adequate coordination of the different activities to strengthen the Deeds Registry, a management consulting firm will be contracted to restore and secure records, improve the physical structure and layout of the Registry and improve management systems. It is expected that this firm will sub-contract the relatively small civil works necessary to ensure the safety of the equipment that will be purchased by Project funds and of the records kept in the Deeds Registry. The possibility of entering into a performance-based contract, where the remuneration of the firm is linked to performance in relation to objective benchmarks, will be explored.

B. Project Readiness

- 4.4 Passage of the Deeds Registry Act was a pre-condition for processing the approval of this operation. Its enactment in February 1999 demonstrated the commitment of the Government of Guyana to improve the system of secured transactions. Additionally, the Minister of Finance has reiterated that strengthening of the Deeds Registry is a Government priority and has agreed to provide budget resources despite the very restrictive fiscal situation. Measures to strengthen the Deeds Registry are being

supported by the IMF, the World Bank, and the IDB under the Highly Indebted Poor Countries Initiative (HIPC).

C. Direct Beneficiaries

- 4.5 The direct beneficiaries of the Project are the individuals who will be able to register their titles and mortgages within a reasonable period of time. Lenders will benefit from a more efficient system for secured transactions. The staff of the Deeds Registry will benefit from training and improved working conditions. In addition, the Government agencies with responsibility for the management, transfer and development of land, particularly the Ministry of Housing and Water, the Lands and Surveys Department and the Central Housing and Planning Authority will benefit from the improved land records management and the streamlined title processes resulting from the Project.

D. Project Period

- 4.6 The execution period has been estimated to be 24 months and the disbursement period 30 months.

V. COSTS AND FINANCING

- 5.1 Total project costs have been estimated at US\$1,355,000, of which US\$940,000 will be provided by the MIF (69%) and US\$415,000 will be provided by the GOG. The most significant project component is the Strengthening of the Deeds Registry, which amounts to about US\$1.1 million or almost four fifths of total project costs. Improvements in the Legal Framework amount to US\$230,000 or 17% on total project costs.
- 5.2 A more detailed table is given at the end of the Donors Memorandum.

VI. PROJECT JUSTIFICATION AND RISKS

A. Project Justification.

- 6.1 The modification of the legal framework for secured transactions, together with the institutional strengthening of the new Deeds Registry, will lead to a more stable banking sector, with better prudential practices. In addition, it will increase the lending base of commercial lenders and suppliers, and has the potential to decrease interest rates for commercial loans.
- 6.2 The proposed Project contributes importantly to two on-going Bank projects, which are the Financial Sector Program and the Agricultural Sector Loan. The Financial Sector Program has supported the strengthening of the institutional and organizational framework for bank supervision, but an improvement in the system for secured

transactions will contribute importantly to the soundness of the banking system in Guyana. Improving the system for registering land will improve performance of the Agricultural Sector Loan. It will also contribute to the success of an operation under preparation, the Low-Income Settlement Project, as the success of this operation will be affected by the efficiency of the Registry in registering titles and mortgages.

B. Risks.

- 6.3 The most important risk of the Project is that improper practices in the operation of the Deeds Registry will continue under the new system. In order to minimize this risk, the GOG has enacted legislation removing the Deeds Registry Office from the jurisdiction of the Public Service Commission. This would permit paying adequate salaries to the Registry staff, and this should contribute to the reduction of improper practices and greater efficiency. Other measures to reduce this risk include the implementation of clear guidelines in the workplace and the exercise of strong supervisory skills. Computerized systems with appropriate security features will also be put in place to reduce operational errors and record tampering, and to increase transparency.
- 6.4 Another major risk is that laws drafted under the Project are not enacted. Outreach activities with major stakeholders and customers would reduce this risk. Even if the laws are not enacted, the activities to strengthen the Deeds Registry will contribute importantly to efficiency and transparency.

VII. PROJECT PERFORMANCE CRITERIA

- 7.1 The **purpose** of the project is to reduce the costs and time required for processing title documents and for creating security interests in movable and immovable property, as well as increase the security of titles. A survey carried out at the initiation of the Project will be used to establish baseline data for these benchmarks.
- 7.2 The table below summarizes the benchmarks associated with Project **outputs**.

ACTIVITY	TIMING
Analysis of legal framework for secured transactions and Action Plan	3 months after contract is signed
Draft amendments to Deeds Registry Act, Bills of Sale Act, laws of evidence, and other related laws identified in the Action Plan	9 months after contract is signed
Seminars on legal framework for customers and stakeholders	First seminar one month after Action Plan is ready Second seminar one month after draft laws are ready
New organizational structure, job descriptions and compensation plan	6 months after contract
Records secured	10 months after contract
Computer hardware and software and other equipment functioning	12 months after contract
Deeds Registry procedures developed	12 months after contract
All new records being computerized	15 months after contract
Program to computerize all historical records being implemented	18 months after contract
Management Information System	15 months after contract
Chart of accounts	15 months after contract
Training seminars for Registry staff	Throughout implementation

VIII. EXCEPTIONS TO POLICIES AND PROCEDURES

- 8.1 There are no exceptions to the Bank policies.

IX. SPECIAL CONTRACTUAL CONDITIONS

- 9.1 Before first disbursement, the Government of Guyana will provide evidence that sufficient counterpart budget resources will be made available.

X. PROCUREMENT

- 10.1 Goods over US\$250,000 will be procured under international competitive bidding procedures. Procurement of goods under that amount will be in accordance with national legislation. For goods with a value over G\$6 million (approximately US\$34,000) and under US\$250,000, procurement will be by national competitive bidding with

advertisement in the local press. For goods with a value less than G\$6 million, procurement will be under national private bidding.

- 10.2 Five contract actions for consulting services are envisaged, of which the most significant one will be a contract with a management consulting firm that will improve the operations of the Deeds Registry. This firm will be selected under international competitive bidding limited to MIF member countries. The other fairly large contract is with a law firm. As the firm must have knowledge of legislation in Guyana, as well as knowledge of practices in other similar countries, the number of firms that would qualify is relatively small. Therefore, the Project Team recommends that a small number of international firms with experience in Guyana be invited to submit bids for this contract. For other consulting contacts between US\$34,000 and US\$200,000 national competitive bidding will be used. For contracts under US\$34,000, national private bidding procedures will be used. The firms and individuals for three relatively small contracts (architect, surveys and security of computer systems) will be selected under national private bidding. The Tentative Procurement Plan is summarized below.

ACTIVITY	Year & Quarter of Advertisement	Contract Amount (US\$)	% IDB	Procedure
Law firm	1999-IV	180,000	100	International private bidding*
Management consulting firm	1999-IV	980,000	80	International competitive bidding*
Architect to supervise refurbishing of Registry	1999-IV	10,000	100	National private bidding
Surveys to evaluate project performance	1999-IV	20,000	100	National private bidding
Computer system audit	2000-II	10,000	100	National private bidding
Mid-term evaluation	2000-III	20,000	100	International private bidding*
Computer equipment and software	2000-I	80,000	70	National competitive bidding
Other office equipment (4 lots)	2000-I	20,000 each	70	National private bidding
Installation of equipment	2000-I	80,000	70	National competitive bidding
* Bidding limited to MIF member countries				

LOGICAL FRAMEWORK

OBJECTIVES	INDICATORS		MEANS OF VERIFICATION	ASSUMPTIONS
Financial intermediation	<ul style="list-style-type: none">Change in the stock of banking credit to the private sector (real terms)Bank loans to the private sector as a % of total bank deposits		<ul style="list-style-type: none">IMF, <i>International Financial Statistics</i>Central Bank statistics	<ul style="list-style-type: none">Adequate macroeconomic and political frameworkAdequate investment climateAdequate prudential supervision of financial institutions
Legal, institutional and organizational framework for secured transactions in movable and immovable property	<ul style="list-style-type: none">Decline in the costs and time required for registering titles and for creating security interests in movable and immovable propertyIncreased legal and physical security of titles		<ul style="list-style-type: none">User surveys: (a) survey at project initiation to establish benchmarks; and (b) survey 18 months after project initiation to evaluate resultsDeeds Registry Management Information System reportsIDB COF site inspections	<ul style="list-style-type: none">Laws implementedBanks respond to increased incentives for secured lending
Analysis of legal framework for secured transactions and Action Plan Amendments to Deeds Registry Act, Bills of Sale Act, laws of procedure, and other related laws identified in the Action Plan Surveys on legal framework for customers and stakeholders Titles secured Registry procedures developed Survey records being computerized and program to computerize all legal records being implemented Management Information System Opening of accounts Computer hardware and software and other equipment functioning Training seminars for Registry staff	<ul style="list-style-type: none">Analysis report and Action PlanReports on outreach seminars including agenda, list of participants and affiliationNumber of computers installedResults of exams for Registry staffNumber of person days of training for Registry staff (computer training plus training in Registry procedures and laws)		<ul style="list-style-type: none">IDB COF site inspectionsAuditor's reportsDeeds Registry Management Information System reports	<ul style="list-style-type: none">Laws enactedProcedures recommended by management consulting firm followed in Deeds RegistryCompetitive salary structure with adequate performance incentives establishedManagement Information System used
Services: honoraria, travel and <i>per diem</i> Printing records and equipment Registry management experts: honoraria, travel and <i>per diem</i> Computers; reproduction, FAX and microfilm equipment; and Salaries of former Registrars Competitive salaries for Registry staff Program management and evaluation Computerizes records	ACTIVITY	AMOUNT (US\$'00)	<ul style="list-style-type: none">Accounting records of GOGAccounting records of IDB COFProcurement reportsReports from supervising architect	<ul style="list-style-type: none">GOG provides counterpart funding on timeContract signed with law firmContract signed with management consulting firmContractor for building improvement performs adequately
Legal Framework	230			
Deeds Registry	1,064			
Project Management	60			
TOTAL	1,354			

DETAILED BUDGET

Activities	MIF	GOG	TOTAL
1. Legal Framework			
International legal services	105,000	0	105,000
Local legal services	40,000	50,000	90,000
Travel and per diem	15,000	0	15,000
Seminars (non-personnel costs)	20,000	0	20,000
Sub-total legal framework	180,000	50,000	230,000
2. Deeds Registry			
International consulting services	120,000	0	120,000
Local consulting services	32,000	0	32,000
Architect	10,000	0	10,000
Travel and per diem	50,000	0	50,000
Equipment and Installation	199,500	179,500	379,000
Moving files	30,000	0	30,000
Local Personnel	0	185,500	185,500
Training (excluding personnel)	15,500	0	15,500
Overhead (150% of personnel costs)	243,000	0	243,000
Sub-total Deeds Registry	700,000	365,000	1,065,000
3. Project Management			
Surveys (baseline and end-of-project)	20,000	0	20,000
Architect	10,000	0	10,000
Monitoring installation of computers	10,000	0	10,000
Mid-term evaluation	20,000	0	20,000
Sub-total project management	60,000	0	60,000
GRAND TOTAL	940,000	415,000	1,355,000

PROPOSED RESOLUTION

GUYANA. NONREIMBURSABLE TECHNICAL COOPERATION TO THE
CO-OPERATIVE REPUBLIC OF GUYANA TO STRENGTHEN THE SYSTEM FOR
PROPERTY RIGHTS

The Donors Committee of the Multilateral Investment Fund

RESOLVES:

1. That the President of the Inter-American Development Bank or such representative as he shall designate is authorized, in the name and on behalf of the Multilateral Investment Fund, to enter into such agreements as may be necessary with the Co-Operative Republic of Guyana, and to take such additional measures as may be pertinent, for the execution of the project proposal contained in Document MIF/AT- with respect to a technical cooperation to strengthen the system for property rights.
2. That up to the amount of US\$940,000, or its equivalent in other convertible currencies, shall be authorized for the purpose of this resolution, chargeable to resources of the Technical Cooperation Facility of the Multilateral Investment Fund.
3. That the above-mentioned sum is to be provided on a nonreimbursable basis.