

Loan No. 440-A/SF-BA
Resolution DE-40/79

SUPPLEMENTARY LOAN CONTRACT

between

BARBADOS

and the

INTER-AMERICAN DEVELOPMENT BANK
(Sewerage System for Bridgetown)

May 29, 1979

LOAN CONTRACT

CONTRACT entered into on May 29, 1979, between BARBADOS (hereinafter called the "Borrower") and the INTER-AMERICAN DEVELOPMENT BANK (hereinafter called the "Bank"), whereby it is agreed as follows:

PART ONE

SPECIAL CONDITIONS

CHAPTER I

The Loan, Purpose and Executing Agency

Section 1.01. Amount. Subject to the terms and conditions set forth herein, the Bank agrees to grant to the Borrower, and the Borrower agrees to accept, a loan chargeable to the Bank's Fund for Special Operations, of up to the amount of two million five hundred and sixty thousand United States dollars (US\$2,560,000), or the equivalent thereof in other currencies forming part of said Fund, except that of Barbados. The amount disbursed hereunder shall hereinafter be called the "Loan".

Section 1.02. Purpose. The purpose of this Loan is to supplement financing granted by Loan 440/SF-BA for construction of a sewerage system for the central area of the city of Bridgetown (hereinafter referred to as the "Project"). The Project is described in more detail in Annex A hereto, which Annex is an integral part of this Contract.

Section 1.03. Executing Agency. The parties agree that the execution of the Project and the utilisation of the resources of the Financing shall be carried out by the Ministry of Health and National Insurance (hereinafter called the "Ministry"), through the Project Execution Unit established in accordance with Section 3.01(g) of Loan Contract 440/SF-BA.

CHAPTER II

Constituent Elements of Contract

Section 2.01. Constituent Elements of Contract. This Contract consists of this Part One, hereafter denominated the Special Conditions, of Part Two, hereafter denominated the General Conditions and of Annexes A, B and C, attached.

Section 2.02. Primacy of the Special Conditions. If any provision of the Special Conditions or the Annexes should present any inconsistency or contradiction with the General Conditions, the provision of the Special Conditions or the respective Annex shall prevail.

CHAPTER III

Amortisation, Interest, and Credit Fee

Section 3.01. Amortisation. The Loan shall be completely repaid by the Borrower not later than May 24, 2014 by means of semiannual, consecutive, and as far as possible, equal installments, the first of which shall be paid November 24, 1987. Not later than three months after the date of the final disbursement of the Financing, the Bank shall deliver to the Borrower an amortisation schedule setting forth the amounts of each installment and the currency or currencies to be utilised therein in accordance with Article 3.04 (c) of the General Conditions.

Section 3.02. Interest. (a) The Borrower shall pay interest semiannually on the outstanding balance of the Loan at the rate of 2% per annum, which shall accrue from the date of each respective disbursement. Interest shall be payable semiannually on May 24 and November 24 of each year, beginning on November 24 1979.

(b) At the request of the Borrower the resources of the Financing may be used to pay interest on the Loan during the disbursement period.

Section 3.03. Credit Fee. In addition to interest the Borrower shall pay a credit fee pursuant to the provisions of Article 3.02 of the General Conditions. For this purpose it is hereby established that the Board of Executive Directors approved the Resolution relating to the Financing on April 19, 1979.

Section 3.04. Reference to General Conditions. With respect to computation of interest and credit fee, obligations relating to currencies, rates of exchange, participations, place of payments, receipts and promissory notes, application of payments, advance payments, renunciation of part of the Financing, and transactions falling due on public holidays, the respective provisions in Chapter III of the General Conditions shall be applied.

CHAPTER IV

Conditions Concerning Disbursements

Section 4.01. General Provision. The Bank shall effect disbursement of the resources of the Financing in accordance with the conditions and procedures established in Chapter IV of the General Conditions and with the special conditions set forth in the present Chapter.

Section 4.02. Special Conditions Precedent to First Disbursement. Prior to the first disbursement, in addition to the conditions precedent stipulated in Article 4.01 of the General Conditions, the Ministry shall have agreed with the Bank as to the firm of independent chartered accountants to carry out the auditing functions required by Section 7.01(ii) of these Special Conditions and Article 7.03(b) of the General Conditions.

Section 4.03. Period for Disbursements. The resources of the Financing may be disbursed not later than December 15, 1981, unless the contracting parties agree in writing to extend this period.

CHAPTER V

Suspension of Disbursements and Accelerated Maturity

Section 5.01. Reference to the General Conditions. The provisions relating the right of the Bank to suspend disbursements, as well as the consequences of any suspension, are set forth in Chapter V of the General Conditions.

CHAPTER VI

Execution of the Project

Section 6.01. Conditions Concerning Prices and Bidding.
(a) Pursuant to the provisions of Article 6.02(b) of the General Conditions, the bidding shall be effected in accordance with the Tenders Procedures which are attached to the present Contract as Annex B, and the contracting parties agree to change the amount established in Article 6.02 to read: "One hundred thousand United States dollars (US\$100,000)" instead of the fifty thousand United States dollars (US\$50,000) which presently appears in the Article.

(b) Notwithstanding the foregoing provision, the Bank may authorise, at the request of the Borrower, that certain works for the Project be carried out by force account for

up to the equivalent of eight hundred thousand United States dollars (US\$800,000); on the making of such request to the Bank, the Borrower shall demonstrate the convenience to proceed in this manner based on the particular characteristics of the works and the existence of available construction capacity.

Section 6.02. Conditions Precedent to Invitation for Tender for the Execution of Specific Works. Prior to the invitation to tender for the execution of specific works, the Borrower shall have presented to the Bank:

(a) Evidence that the necessary easements have been obtained, and the land where specific works are executed has been acquired and is free of any legal encumbrance; and

(b) The final plans, specifications and the budget of the works to be undertaken.

Section 6.03. Currencies and Use of Funds. (a) The amount of the Financing shall be disbursed in United States dollars or the equivalent thereof in other currencies of the Fund for Special Operations, except that of Barbados, to pay for goods and services acquired through international competition and for such other purposes as are indicated in this Contract.

(b) The currencies of the Financing, may be used for the payment of goods and services originating in any member country of the Bank, unless the member country issuing a currency has restricted its use in accordance with Article V, Section 1(c), of the Agreement Establishing the Bank.

(c) Any goods or services not originating in Barbados which it may be necessary to acquire or contract for the execution of the Project shall be financed with the currencies to which paragraph (a) above refers. Consequently, the Borrower may not utilise national resources for acquisitions or contracted services not originating in Barbados, except for minor purchases in the local market, before having assigned, committed or utilised the resources in the aforementioned currencies for such purposes.

Section 6.04. Cost of the Project. The total cost of the Project is estimated to be the equivalent of nineteen million nine hundred and sixteen thousand United States dollars (US\$19,916,000) and in no case shall the participation of the resources of the present Financing and that of Loan 440/SF-BA exceed 61.6% of such amount.

Section 6.05. Additional Resources. The amount of the additional resources which, pursuant to Article 6.04 of the General Conditions and Section 5.07 of Loan Contract 440/SF-BA the Borrower undertakes to contribute in a timely manner for the complete and uninterrupted execution of the Project, is estimated to be the equivalent of seven million six hundred and fifty-six thousand United States dollars (US\$7,656,000), but this estimate shall not imply any limitation or reduction of the obligation of the Borrower under said Article. This local contribution includes the amount of US\$3,922,000 which the Borrower agreed to provide originally under Loan Contract 440/SF-BA. To compute the equivalency in United States dollars, the rules established in Article 3.04(a) of the General Conditions shall be followed.

Section 6.06. Creation and Administration of a Statutory Authority. Within the periods set forth below, the Borrower undertakes the following obligations:

(a) By October 8, 1980, to present evidence to the Bank that an Authority has been legally created as an administratively and financially autonomous entity which shall have under its jurisdiction the production and distribution of potable water in Barbados, as well as the administration of the sewerage system financed under the Project upon the completion thereof, and any other sewerage system that may in the future be constructed in Barbados, in accordance with the recommendations of the consultants contracted for such purpose pursuant to the provisions of Technical Cooperation Agreement No. ATN/SF-1398 of even date, or such other recommendations as may be agreed to between the Bank and the Borrower.

(b) By January 8, 1981, to present evidence to the Bank that: (1) the Authority is fully operating the water system of Barbados and that such system has been transferred as a capital contribution by the Borrower to the Authority; and (2) that the Borrower has provided for the payment of the liabilities relating to the water supply system out of funds other than those belonging to the Authority or future income of the Authority.

(c) Within 120 days of the completion of the Project, present evidence to the Bank that the staff of the Project Execution Unit has been merged into the Authority and that the ownership of the sewerage system has been transferred by the Borrower to the Authority as a capital contribution to the latter.

Section 6.07. Rates for Water and Sewerage Services. The Borrower shall take the appropriate measures acceptable to the Bank to ensure that the rates charged for the supply of water, whether by the Waterworks Department or the Authority, and the rates charged by the latter, for the provision of sewerage service, shall be gradually increased in order that within three years of the completion of the Project and during the life of the Loan, such rates produce revenues at least sufficient to cover all operating expenses of the water supply and sewerage systems, including those relating to the administration, operation and maintenance and to the extent possible, depreciation, taking into consideration the recommendations resulting from Technical Cooperation Agreement ATN/SF-1398-BA in financial and tariff matters. In view of the foregoing, such graduated rates shall be presented to the Bank by October 8, 1981.

Section 6.08. Operating Deficits. The Borrower shall cover operating deficits, if any, incurred by the Authority in the operation of either the water supply or sewerage systems.

Section 6.09. Service of the Loan. The Borrower agrees that the service of the Loan shall be covered from its own resources, other than those of the Authority.

Section 6.10. Limitation on Additional Investment. The Borrower agrees that for a period of 8 years from creation of the Authority, prior approval of the Bank shall be obtained before the Authority: (i) incurs any long-term liability; or (ii) acquires any fixed assets, undertakes any other expansion or improvement project, or makes any distribution of earnings or any accumulated surplus, if the aggregate cost of such acquisition, project, or distribution, exceeds the equivalent of US\$500,000. The Bank shall indicate its agreement or disagreement within 30 working days from the date of receipt at Bank headquarters of the request for concurrence, accompanied by documents justifying such request. If the Bank is not in agreement with the request, it shall in its reply indicate in detail the reason for such opinion. If the Bank does not reply within 30 days, the request shall be considered approved.

Section 6.11. Fund for the Financing of In-house installations. The Borrower shall take the necessary measures satisfactory to the Bank to establish, with the national resources referred to in Section 6.05, a Fund in the amount of not less than the equivalent of US\$300,000, for loans and grants to low-income families for the financing of in-house installations, and shall present to the Bank no later than April, 8, 1980, proposed regulations for the utilisation of such Fund. These

regulations shall include the obligation of the Borrower to maintain the Fund, utilising the amounts repaid from these loans, or from contributions by the Borrower, at not less than the equivalent of US\$100,000 per year for 10 years from the date of this Contract.

Section 6.12. Maintenance of the Sewerage System. During the first 90 days of each calendar year beginning with the calendar year in which the system financed by this Loan is completed and for at least the first 10 years of operation of such sewerage system, the Borrower shall present to the Bank, through the Authority:

- (a) an annual maintenance plan for the system which shall include details of the internal organisation proposed to implement such plan, as well as the personnel and budget resources to be assigned thereto; and
- (b) a report covering the previous year which shall contain details regarding the operation and maintenance of the system, including information regarding the quality control of the effluent from the treatment plant. The report shall also include the measures proposed to be adopted by the Authority to correct any deficiency which may be found in the system's operation.

Section 6.13. Manuals, Regulations and Collection of Accounts. The Borrower shall present to the Bank for its approval, no later than April 8, 1980:

- (a) the manuals and procedures which the Authority proposes to utilise for the operation and maintenance of the sewerage system;
- (b) the regulations proposed to be adopted for the proper utilisation of the system, which shall include the obligation of owners of the buildings located in front of the sewer system to connect to such system and which either shall require all ships in the Bridgetown harbor to discharge liquid and solid wastes by connection to the sewerage system or which otherwise prohibits the discharge of such wastes in the territorial waters of Barbados; and
- (c) a plan for the collection of accounts relating to the supply of water which are more than 90 days past due.

CHAPTER VII

Records, Inspections, and Reports

Section 7.01. Records, Inspections, and Reports. The Borrower agrees that directly or through the Executing Agency it shall maintain records, permit inspections, and submit reports and financial statements in accordance with the provisions of Chapter VII of the General Conditions, except that: (i) the financial statements provided for under Article 7.03 (a)(iii) and (a)(iv) shall commence with those corresponding to the 1979 fiscal year and (ii) with reference to Article 7.03(b), the financial statements of the Project during its execution, and of the Authority from its creation and for the duration of this Contract, shall be certified by a firm of chartered accountants in accordance with requirements satisfactory to the Bank.

Section 7.02. Resources for General Inspection and Supervision. From the amount of the Financing, the sum of twenty-five thousand six hundred United States dollars (US\$25,600) is hereby allocated to cover the Bank's expenses for general inspection and supervision. Said sum shall be disbursed in quarterly and as far as possible equal installments and shall be entered as a credit to the accounts of the Bank without the necessity of an application by the Borrower.

CHAPTER VIII

Miscellaneous Provisions

Section 8.01. Entry into Effect. The parties agree that the Contract shall enter into effect on the date of its signature.

Section 8.02. Termination. Payment in full of the Loan and of interest and fees shall terminate the Contract and all obligations arising under it.

Section 8.03. Validity. The rights and obligations established in the Contract are valid and enforceable in accordance with its terms, regardless of the legislation of any given country.

Section 8.04. Communications. Any notice, request, or communication from one party to another by virtue of the Contract shall be made in writing and shall be considered effected when the relevant document is delivered to the addressee at the respective address as given below, unless the parties agree otherwise in writing:

For the Borrower:

Mail Address:

Ministry of Finance and Planning
Bridgetown, Barbados

Cable Address:

BRIDGETOWN (Barbados)

(For matters related to execution of the Project)

Mail Address:

The Bridgetown Sewerage Project
Ministry of Health and National Insurance
Waverly, Lower Fontabelle
Bridgetown, Barbados

Cable Address:

BRIDGETOWN (Barbados)

For the Bank:

Mail Address:

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

Cable Address:

INTAMBANC
WASHINGTON DC (U.S.A.)

CHAPTER IX

Arbitration

Section 9.01. Commitment to Arbitrate. For the solution of any controversy which may arise out of the Contract and which is not resolved by agreement between the parties, they unconditionally and irrevocably submit themselves to the procedure and ruling of the Arbitration Tribunal referred to in Chapter IX of the General Conditions.

IN WITNESS WHEREOF, the Borrower and the Bank, each acting through its authorised representative, have signed this Contract, in two equally authentic copies in Montego Bay, Jamaica, on the date above written.

BARBADOS

/s/ Nigel A. Barrow

Nigel A. Barrow
Minister without Portfolio
Special Representative

INTER-AMERICAN DEVELOPMENT BANK

/s/ Antonio Ortiz Mena

Antonio Ortiz Mena
President

PART TWO
GENERAL CONDITIONS

CHAPTER I

Application of the General Conditions

Article 1.01. Application of the General Conditions. The policies embodied in these General Conditions apply to the respective loan contracts entered into by the Inter-American Development Bank with its borrowers, and accordingly the provisions hereof form an integral part of this Contract.

CHAPTER II

Definitions

Article 2.01. Definitions. For the purpose of the obligations contracted between the parties, the following definitions are adopted:

- (a) "Bank" means the Inter-American Development Bank.
- (b) "Board of Executive Directors" means the Board of Executive Directors of the Bank.
- (c) "Borrower" means the party to which the Financing is made available.
- (d) "Contract" means the entirety of the Special Conditions, the General Conditions, and the Annexes.
- (e) "Executing Agency" means the entity responsible for executing the Project.
- (f) "Financing" means the funds which the Bank has agreed to make available to the Borrower to assist in carrying out the Project.
- (g) "General Conditions" means the present document, adopted by the Bank on November 2, 1976.

- (h) "Guarantor" means the party which guarantees the obligations contracted by the Borrower.
- (i) "Loan" means the funds disbursed from the Financing.
- (j) "Project" means the Project or Programme for which the Financing has been extended.
- (k) "Special Conditions" means the entirety of the provisions constituting Part One of the Contract.

CHAPTER III

Amortisation, Interest and Credit Fee

Article 3.01. Amortisation. The amortisation of the Loan shall be effected by the Borrower in accordance with the provisions set forth in the Special Conditions and those established hereinafter.

Article 3.02. Credit Fee. (a) The Borrower shall pay on the undisbursed balance of the Financing, other than that part in the national currency of the Borrower, a credit fee of 1/2 of 1% per annum, which shall begin to accrue 12 months after the date of the Resolution of the Board of Executive Directors approving the Financing.

(b) This fee shall be paid in United States dollars on the same dates as those specified for the payment of interest pursuant to the provisions of the Special Conditions.

(c) This fee shall cease to accrue in full or in part, as the case may be, to the extent that: (i) the respective disbursements have been made; (ii) the Financing has been cancelled totally or partially pursuant to Articles 3.11 or 4.05 of these General Conditions, or pursuant to the Special Conditions; or (iii) disbursements have been suspended pursuant to Article 5.01 of these General Conditions.

Article 3.03. Computation of Interest and Credit Fee. The interest and credit fee for less than a full six-month period shall be calculated on a per day basis, using a factor of three hundred and sixty-five (365) days per annum.

Article 3.04. Obligations Relating to Currencies. (a) Amounts which are disbursed shall be applied, on the date of

each respective disbursement, against the Financing in accordance with the equivalency in United States dollars as reasonably determined by the Bank pursuant to the provisions of Article 3.05(a).

(b) The Borrower shall owe, in the respective currencies disbursed, from the date of the corresponding disbursement:

- (i) The amounts disbursed in any of the currencies which form part of the Fund for Special Operations, in respect of which the Bank has indicated that they may be considered freely convertible; and
- (ii) Amounts equivalent in United States dollars to the sums disbursed in currencies not included in the preceding subparagraph which form part of the Fund for Special Operations.

(c) On the due dates established pursuant to the provisions of the Special Conditions, the Borrower shall pay, in the respective currencies disbursed, amortisation and interest on:

- (i) The amounts disbursed in the currencies referred to in subparagraph (b)(i) above; and
- (ii) Amounts equivalent in United States dollars to the sums disbursed in the currencies referred to in subparagraph (b)(ii) above.

Article 3.05. Rate of Exchange. (a) For the purposes set forth in paragraphs (a) and (b)(ii) of the preceding Article, the equivalency of other currencies in relation to the United States dollar shall be calculated by applying on the date on which the disbursement is made, the exchange rate agreed upon by the Bank with the respective issuing member country for the purpose of maintaining the value of its currency held by the Bank, in accordance with Article V, Section 3, of the Agreement Establishing the Bank.

(b) For the purposes of payments to the Bank pursuant to paragraph (c)(ii) of the preceding Article:

- (i) The equivalency of other currencies in relation to the United States dollar shall be calculated, on the date of payment, in accordance with the rate of exchange referred to in paragraph (a) of this Article.

- (ii) Should there be no agreement in force between the Bank and the respective member country with regard to the rate of exchange to be applied for the purpose of maintaining the value of its currency held by the Bank, the latter shall have the right to require that the rate of exchange to be applied shall be that which on the due date is utilised by the corresponding monetary authority of the issuing country to sell United States dollars to residents of such country, other than government agencies, for the following transactions: (a) payments of principal and interest due; (b) transfers of dividends or other income from capital investments in the respective country; and (c) transfers of investment capital. In the event there is no uniform rate of exchange for these three types of operations, the highest rate shall be applied, i.e., the rate representing the highest number of units of the currency of such country per United States dollar.
- (iii) If, on the date on which the payment is due, the foregoing rule cannot be applied because the operations referred to do not exist, payment shall be made on the basis of the most recent rate of exchange in effect within the thirty (30) days preceding the respective due date.
- (iv) If, notwithstanding the application of the foregoing rules, the effective rate of exchange for the purpose of determining payment cannot be ascertained, or if discrepancies arise in the determination thereof, the reasonable determination of the Bank shall be controlling, taking into consideration the realities of the foreign exchange market of the member country concerned.
- (v) If, due to non-compliance with the foregoing rules, the Bank considers that any payment made in the respective currency has been insufficient, it shall so advise the Borrower immediately in order that the latter shall pay the difference within a period no greater than thirty (30) days from the receipt of the notification. If, on the other hand, it appears that the sum received by the Bank is higher than that due, it shall return the excess amount within a period no greater than thirty (30) days from the receipt thereof.

- (vi) In case of a delayed payment the Bank may require that the rate of exchange in effect at the time of payment be applied.

(c) For the purpose of determining the equivalency in United States dollars of an expense incurred in the currency of the Borrower's country, the rate of exchange indicated in paragraph (a) above which is applicable on the date of such expense shall be utilised.

Article 3.06. Participations. The Bank may cede to other public or private institutions, in the form of participations and to the extent it may deem proper, the rights corresponding to the Borrower's pecuniary obligations derived from the Contract. The Bank shall immediately inform the Borrower of any participations it may have granted.

Article 3.07. Place of Payments. All payments shall be made at the principal office of the Bank in Washington, District of Columbia, United States of America, unless the Bank designates another place or places for this purpose by written notification to the Borrower.

Article 3.08. Receipts and Promissory Notes. At the request of the Bank, the Borrower shall sign and deliver to the Bank, upon the completion of disbursements, a receipt or receipts for the amounts disbursed. Likewise, the Borrower shall sign and deliver to the Bank, at its request, promissory notes or other negotiable instruments representing the Borrower's obligation to repay the Loan with the interest agreed upon in the Contract. Such documents shall be in the form prescribed by the Bank taking into account the applicable legal provisions of the country of the Borrower.

Article 3.09. Application of Payments. All payments shall be applied first to the credit fee, then to interest due, and if a balance exists, to installments of principal due.

Article 3.10. Advance Payments. Upon advance notice in writing to the Bank of at least fifteen (15) days, the Borrower may pay, on the date indicated in the notification, any part of the Loan prior to its maturity, provided that no sum is owing in respect of the credit fee and/or interest. Unless otherwise agreed in writing, each partial advance payment shall be applied to unpaid installments of principal in the inverse order of their maturity.

Article 3.11. Renunciation of Part of the Financing. The Borrower, with the concurrence of the Guarantor, if any, may renounce, by written notice to the Bank, its right to

utilise any part of the Financing which has not been disbursed before the receipt of the notice, provided that such part is not subject to any of the circumstances set forth in Article 5.03 of these General Conditions.

Article 3.12. Transactions Falling Due on Public Holidays. Any payment or other transaction which under the Contract should be performed on a Saturday or a day which is a public holiday according to the law of the place where it is required to be done, shall be considered validly performed if carried out on the first business day immediately thereafter, and in such case no penalty whatever shall apply.

CHAPTER IV

Conditions Relating to Disbursements

Article 4.01. Conditions Precedent to First Disbursement. The first disbursement of the Financing shall be subject to fulfillment of the following requirements to the satisfaction of the Bank:

- (a) The Bank shall have received one or more legal opinions which establish, with citations to the pertinent constitutional, legal, and reglamentary dispositions, that the obligations undertaken by the Borrower in the Contract, and those of the Guarantor, if any, in the Guarantee Contract, are valid and enforceable. Such opinions shall also cover any other legal question that the Bank reasonably may deem relevant.
- (b) The Borrower, directly or through the Executing Agency, if any, shall have designated one or more officials to represent it in all acts relating to the implementation of the Contract and shall have furnished the Bank with authentic copies of the signatures of said representatives. Should two or more officials be designated, the Borrower shall indicate to the Bank whether such officials are to act jointly or separately.
- (c) It shall have been demonstrated to the Bank that resources have been assigned sufficient to cover, at least during the first calendar year, the execution of the Project in accordance with the investment schedule referred to in the following paragraph.

- (d) The Borrower, directly or through the Executing Agency, if any, shall have presented to the Bank an initial report prepared in the form indicated by the Bank, which shall serve as the basis for the preparation and evaluation of the subsequent progress reports referred to in Article 7.03 of these General Conditions. In addition to such other information as the Bank may reasonably request pursuant to the provisions of the Contract, the initial report shall set forth: (i) a plan for the execution of the Project including, except with respect to a programme for the granting of credits, the details and specifications deemed necessary by the Bank; (ii) a calendar or schedule of work or for the granting of credits, as the case may be; (iii) a table of the origin and use of funds setting forth a detailed schedule of investments in accordance with the categories of investment established in Annex A of the Contract and an indication of the annual contributions needed from the various sources of funds from which the Project will be financed. When the Contract permits recognition of expenditures prior to its signature, the initial report shall include a statement of the investments and, in accordance with the objectives of the Financing, a description of works carried out under the Project or a statement as to credits granted, as the case may be, up to a date immediately prior to the report.
- (e) The Executing Agency shall have presented to the Bank the plan, catalogue or code of accounts referred to in Article 7.01 of these General Conditions.

Article 4.02. Requisites for All Disbursements. For the Bank to make any disbursement, it shall be necessary that: (a) the Borrower, or the Executing Agency, if any, shall have submitted in writing a disbursement application and, in support thereof, shall have supplied, to the satisfaction of the Bank, such documents and other background materials as it may have required; and, (b) none of the circumstances described in Article 5.01 of these General Conditions shall have occurred.

Article 4.03. Disbursements for Technical Cooperation. If the Special Conditions contemplate the financing of expenses for technical cooperation, the disbursements therefor may be made once the conditions established in paragraphs (a) and (b) of Article 4.01 and in Article 4.02 of these General Conditions have been fulfilled.

Article 4.04. Disbursements for Inspection and Supervision. The Bank may effect disbursements relating to the fee for general inspection and supervision provided for in the Special Conditions, without the necessity of an application by the Borrower or the Executing Agency, as the case may be, provided that the conditions for the first disbursement have been fulfilled.

Article 4.05. Period for Requesting First Disbursement. If within one hundred and eighty (180) days from the date of the Contract, or such later date as the parties may agree in writing, an appropriate request for disbursement has not been submitted to the Bank after the fulfillment of the conditions precedent to the first disbursement established in these General Conditions and in the Special Conditions, the Bank may terminate the Contract by notice to the Borrower. Disbursements made by the Bank for the fee for general inspection and supervision shall not be considered as constituting requests for disbursement.

Article 4.06. Disbursement Procedures. The Bank may make disbursements against the Financing by: (a) transferring directly to the Borrower the sums to which it is entitled under the terms of the Contract; (b) making payments on behalf of and in agreement with the Borrower to other banking institutions; (c) constituting or replenishing the revolving fund referred to in Article 4.07 below; and (d) utilising such other method as the parties may agree upon in writing. Any banking expenses that may be charged by a third party in connection with disbursements shall be borne by the Borrower. Unless the parties otherwise agree, disbursements shall be made only in amounts of not less than the equivalent of fifty thousand United States dollars (US\$50,000) each.

Article 4.07. Revolving Fund. By charge to the Financing and upon fulfillment of the requirements set forth in Articles 4.01 and 4.02 of these General Conditions and in the Special Conditions, when applicable, the Bank may establish a revolving fund which shall be utilised to defray the costs pertaining to the execution of the Project and which, except by special agreement between the parties, shall not exceed 10% of the amount of the Financing. Upon request, the Bank may replenish this fund, entirely or in part, as the resources are used, provided that the requirements of Article 4.02 of these General Conditions and those which may be established in the Special Conditions have been fulfilled. The establishment and replenishment of the revolving fund shall be considered as disbursements for all purposes of the Contract.

Article 4.08. Availability of Local Currency. The Bank shall be obliged to make disbursements to the Borrower in local currency only to the extent that the respective depository of the Bank has placed such currency at its effective disposition.

CHAPTER V

Suspension of Disbursements and Accelerated Maturity

Article 5.01. Suspension of Disbursements. The Bank, by written notice to the Borrower, may suspend disbursements if any of the following circumstances occurs and so long as it continues:

(a) Delay in the payment of any sums owed by the Borrower for principal, fees, and interest, or for any other reason, under the Contract or any other loan contract entered into between the Bank and the Borrower.

(b) Nonfulfillment by the Borrower of any other obligation set forth in the Contract or in any other contract entered into with the Bank for the financing of the Project.

(c) Withdrawal or suspension from membership in the Bank of the country in which the Project is to be executed.

(d) Any restriction of the legal capacity, or any substantial change in the functions or assets of the Borrower or Executing Agency, if any, or any modification, without the written concurrence of the Bank, of either any condition fulfilled on the basis of the Resolution approving the Financing which was basic to the signature of the Contract or any basic condition fulfilled before the approval of the Resolution. Upon occurrence of any of the foregoing, the Bank may require the Borrower to provide reasoned and detailed information in order that the Bank may determine whether such restriction or modification might have an unfavorable effect on the execution of the Project. The Bank may suspend disbursements only if after hearing the Borrower and weighing the information or clarification received, or if the Borrower has failed to respond, the Bank considers that the restrictions, changes or modifications may affect the Project substantially and unfavorably or make its execution impossible.

(e) The non-compliance on the part of the Guarantor, if any, of any obligation set forth in the Guarantee Contract.

(f) When the Borrower is not a member country, any extraordinary circumstance, which in the opinion of the Bank, makes it unlikely that the Borrower will be able to comply with the obligations established in the Contract or to fulfill the purposes for which it was entered into.

Article 5.02. Termination or Accelerated Maturity. If any of the circumstances set forth in paragraphs (a), (b), (c) or (e) of the preceding article continues for more than sixty (60) days, or if under paragraph (d) thereof the clarification or additional information presented by the Borrower or the Executing Agency, if any, is not satisfactory, the Bank may terminate the Contract with respect to the part of the Financing not yet disbursed and/or may declare immediately due and payable the entire Loan or any part of it together with interest and fees accrued up to the date of payment.

Article 5.03. Obligations not Affected. Notwithstanding the provisions of the foregoing Articles 5.01 and 5.02, none of the measures set forth in this Chapter shall affect: (a) any amounts subject to the guarantee of an irrevocable letter of credit; and (b) any amounts which the Bank by specific written agreement with the Borrower or the Executing Agency, as the case may be, has agreed to provide from the resources of the Financing to make payments to a supplier of goods or services.

Article 5.04. Nonwaiver of Rights. Any delay by the Bank in the exercise of the rights provided by this Chapter, or failure to exercise them, shall not be construed as a waiver by the Bank of any such rights nor as acquiescence in the circumstances that would have empowered it to exercise them.

Article 5.05. Provisions not Affected. The application of any of the measures provided for by this Chapter shall not affect the obligations of the Borrower established in the Contract, which shall remain in full force and effect, except that in case the entire Loan has been declared due and payable only the pecuniary obligations of the Borrower shall continue in force.

CHAPTER VI

Execution of the Project

Article 6.01. General Provisions for Execution of the Project. (a) The Borrower undertakes that the Project shall be executed with due diligence in conformity with sound financial and technical practices, and in accordance with the

plans, specifications, investment schedule, budgets, regulations, and other documents approved by the Bank.

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

Article 6.02. Prices and Public Tender. (a) Contracts for construction and for the supply of services, as well as all procurement of goods for the Project, shall be undertaken at a reasonable cost which shall generally be the lowest market price, taking into account quality, efficiency, and any other pertinent factors.

(b) In the acquisition of machinery, equipment and other materials for the Project, and in the awarding of contracts for construction and other works, the system of public tender shall be utilised in each case in which the value of such acquisitions or contracts exceeds the equivalent of fifty thousand United States dollars (US\$50,000). The procedures for tendering shall be agreed upon between the Bank and the Borrower.

Article 6.03. Use of Goods. The goods acquired with the resources of the Financing shall be used exclusively for the purposes of the Project. The express agreement of the Bank shall be necessary in the event the Borrower should desire to dispose of such goods for other purposes, except that construction machinery and equipment utilised in the execution of the Project may be dedicated to different uses after the Project has been completed.

Article 6.04. Additional Resources. (a) The Borrower shall contribute in a timely manner all national resources in addition to the Loan which may be necessary for the complete and uninterrupted execution of the Project, the estimated amount of which is specified in the Special Conditions. If during the process of disbursement of the Financing an increase in the estimated cost of the Project arises, the Bank may require the modification of the investment schedule referred to in Article 4.01(d) of these General Conditions in order that the Borrower shall meet such increase.

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

CHAPTER VII

Records, Inspections and Reports

Article 7.01. Records. The Borrower or the Executing Agency, as the case may be, shall maintain appropriate records for registering, in accordance with the plan, catalogue, or code of accounts approved by the Bank, the investments in the Project, both from the resources of the Loan and from the other funds to be provided for its complete execution. In the case of a specific project, the records shall include sufficient detail to show the goods acquired and the services contracted for, making it possible to identify the investments realised in each category and the utilisation of the goods and services so acquired, and establishing a record of the progress and cost of the works. With respect to a program of credits, the records shall detail the credits granted and the utilisation of the repayments obtained thereon.

Article 7.02. Inspections. (a) The Bank may establish such inspection procedures as it deems necessary to assure the satisfactory development of the Project.

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

Article 7.03. Reports and Financial Statements. (a) The Borrower or the Executing Agency, as appropriate, shall present to the Bank the following reports, within the periods specified with respect to each:

- (i) Within sixty (60) days after the end of each calendar semester, or within such other period as the parties shall agree, reports on the execution of the Project in accordance with the standards which the Bank shall have transmitted to the Executing Agency.
- (ii) Such other reports as the Bank may reasonably request regarding the investment of the amounts lent, the use of goods acquired with such sums, and the progress of the Project.

- (iii) Within one hundred and twenty (120) days following the close of each fiscal year of the Executing Agency, beginning with the fiscal year following that in which the Project was initiated, and while it continues in execution, three copies of the financial statements and complementary financial information, as of the close of such fiscal year, relating to the Project in its entirety.
- (iv) In addition, except when the Borrower is the member country or the Central Bank, within one hundred twenty (120) days following the close of each fiscal year of the Borrower, beginning with the fiscal year following that in which the Project was initiated, and while the obligations of the Borrower under the Contract continue, three copies of its financial statement as of the close of such fiscal year and complementary financial information relative to such statement.

(b) The statements and information described in the foregoing subparagraphs (iii) and (iv) shall be certified by the respective official auditing authority in accordance with the standards required by the Bank and within the periods above-mentioned. Nevertheless, if the parties so agree, or if the official entity is unable to perform the work in the manner indicated, the Executing Agency or the Borrower, as the case may be, shall contract the services of a firm of independent chartered accountants acceptable to the Bank, whose charges and expenses shall be paid by the Borrower or the Executing Agency.

CHAPTER VIII

Provision on Encumbrances

Section 8.01. Commitment on Encumbrances. If the Borrower should agree to create any specific encumbrance on all or part of its assets or revenues to secure an external debt, it shall at the same time create an encumbrance guaranteeing to the Bank, equally and proportionally, the fulfillment of the pecuniary obligations arising from the Contract. The foregoing shall not apply to: (i) encumbrances created on purchased goods to assure the payment of the unpaid balance of the purchase price; and (ii) encumbrances created in banking operations to guarantee payment of debts with maturities of

not more than one year. In the event that the Borrower is a member country, the term "assets or revenues" shall mean all types of assets or revenues which belong to or are received by the Borrower or any of its dependent agencies which are not autonomous entities with their own separate capital.

CHAPTER IX

Arbitration Procedure

Article 9.01. Composition of the Tribunal. (a) The Arbitration Tribunal shall be composed of three members to be appointed in the following manner: one by the Bank, another by the Borrower, and a third, hereinafter called the "Referee", by agreement between the parties, either directly or through their respective arbitrators. If the parties or the arbitrators fail to agree on who shall be the Referee, or if one of the parties should not designate an arbitrator, the Referee shall be appointed, at the request of either party, by the Secretary General of the Organization of American States. If either of the parties fails to appoint an arbitrator, he shall be appointed by the Referee. If either of the appointed arbitrators or the Referee is unwilling or unable to act or to continue to act, his successor shall be appointed in the same manner as for the original appointment. The successor shall have the same functions and faculties as his predecessor.

(b) If the controversy affects not only the Borrower but also the Guarantor, if there is such, both shall be considered a single party and consequently shall act jointly in the designation of the arbitrator and for the other purposes of the arbitration proceedings.

Article 9.02. Initiation of the Procedure. In order to submit the controversy to arbitration the claimant shall address to the other party a written communication setting forth the nature of the claim, the satisfaction or compensation which it seeks, and the name of the arbitrator it appoints. The party receiving such communication shall, within forty-five (45) days, notify the adverse party of the name of the person it appoints as arbitrator. If, within thirty (30) days after delivery of such notification to the claimant, the parties have not agreed as to the person who is to act as Referee, either party may request the Secretary General of the Organization of American States to make the appointment.

Article 9.03. Convening of the Tribunal. The Arbitration Tribunal shall be convened in Washington, District of Columbia, U.S.A., on the date designated by the Referee, and, once convened, shall meet on the dates which the Tribunal itself shall establish.

Article 9.04. Procedure. (a) The Tribunal shall be competent to hear only the matters in controversy. It shall adopt its own procedures and may on its own initiative designate whatever experts it considers necessary. In any case, it shall give the parties the opportunity of making oral presentations.

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

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

Article 9.05. Costs. The fees of each arbitrator shall be paid by the party which appointed him and the fees of the Referee shall be paid by both parties in equal proportion. Prior to the convening of the Tribunal, the parties shall agree on the remuneration of the persons who by mutual agreement they deem should take part in the arbitration proceedings. If such agreement is not reached in a timely manner, the Tribunal itself shall determine the compensation which may be reasonable for such persons under the circumstances. Each party shall defray its own expenses in the arbitration proceedings, but the expenses of the Tribunal shall be borne equally by the parties. Any doubt regarding the division of costs or the manner in which they are to be paid shall be determined, without appeal, by the Tribunal.

Article 9.06. Notification. All notifications relative to the arbitration proceeding or to the award shall be made in the manner provided in the respective Contract. The parties expressly waive any other form of notification.

Annex A

DESCRIPTION OF THE PROJECT

I. DESCRIPTION OF THE PROJECT

The construction of a sewerage system for the central area of the city of Bridgetown, including the following works:

- (a) Construction of a system of sanitary sewers.
- (b) Construction of a sewage treatment plant.
- (c) Construction of an ocean outfall.
- (d) Installation of in-house connections.

II. COST AND FINANCING

- 2.01 The cost of the Project is estimated at approximately the equivalent of US\$19,916,000 as follows (US\$1,000):

<u>Categories of Investment</u>	<u>BANK</u>				<u>Total</u>
	<u>Foreign Exchange</u>	<u>Local Currency</u>	<u>Sub- total</u>	<u>Bor- rower</u>	
1. <u>Engineering and Administration</u>	443	-	443	818	1,261
1.1 Engineering and supervision	443	-	443	454	897
1.2 Administration	-	-	-	364	364
2. <u>Direct Cost</u>	7,260	200	7,460	4,258	11,718
2.1 In-house connections	-	-	-	300	300
2.2 Sanitary sewers	2,750	200	2,950	3,058	6,008
2.3 Sewage treatment plant	3,960	-	3,960	750	4,710
2.4 Ocean outfall	550	-	550	150	700
3. <u>Financial Charges</u>	487	-	487	147 ^{1/}	634
3.1 Interest and fees	365	-	365	147	512
3.2 Bank supervision	122	-	122	-	122
4. <u>Concurrent Costs</u>	210	-	210	810	1,020
4.1 Indemnification	-	-	-	810	810
4.2 Payment T.C. ATN/SF-1106	210	-	210	-	210
5. <u>Unallocated Funds</u>	3,660	-	3,660	1,623	5,283
5.1 Contingencies	600	-	600	873	1,473
5.2 Cost Escalation	3,060	-	3,060	750	3,810
Totals	12,060 ^{2/}	200	12,260	7,656	19,916

^{1/} Foreign currency for payment of the credit commission.

^{2/} Includes US\$3,158,000 for indirect foreign exchange costs.

2.02 The Project shall be financed as follows (US\$1,000):

	<u>Source of Funds</u>		<u>Expenditures to be Made</u>			<u>%</u>
	<u>Foreign</u>	<u>Local</u>	<u>Foregin</u>	<u>Local</u>	<u>Total</u>	
(a) Bank Loan	12,060	200	12,060 ^{1/}	200	12,260	61.6
(b) Borrower	<u>1,829</u>	<u>5,827</u>	<u>1,829</u>	<u>5,827</u>	<u>7,656</u>	<u>38.4</u>
Totals	<u>13,889</u>	<u>6,027</u>	<u>13,889</u>	<u>6,027</u>	<u>19,916</u>	<u>100.0</u>
Percentages	69.7	30.3	69.7	30.3	100.0	

^{1/} Includes the equivalent of US\$3,158,000 in indirect foreign exchange costs.

III. BIDDING

The bidding procedures and specific bidding requirements shall permit free participation of bidders from eligible countries and, consequently, such procedures and/or specific bidding requirements shall not contain any condition which may impede or restrict the participation of such bidders.

IV. SELECTION AND CONTRACTING OF CONSULTANTS OR CONSULTING FIRMS

In the selection and hiring of Consultants or Consulting Firms for the Project, the procedures prescribed in the Loan Contract and/or in the Technical Cooperation Agreement, as appropriate, shall be followed with the understanding that the Borrower shall not establish, for application either prior to or subsequent to the provision of services: (i) provisions or conditions preventing or restricting the selection and contracting of such Consultants or Consulting Firms of member countries of the Bank, or (ii) requirements or conditions based on the nationality of such Consultants or Consulting Firms of member countries of the Bank.

ANNEX B

TENDERS PROCEDURES

BANK RESOURCES--SANITARY SEWERAGE BRIDGETOWN PROJECT

These procedures shall be followed in awarding contracts for the construction of the works and for the procurement by the Borrower of materials for use in the Project whenever the value of such contracts or equipment acquisitions are expected to exceed the equivalent of one hundred thousand United States dollars (US\$100,000) and when any part of the resources of the Bank are to be used for such purposes.

I. TENDERS COMMITTEE

A. A Special Tenders Committee shall be established and shall be comprised of the following persons:

- (a) the Chief Supply Officer (Chairman),
- (b) the Crown Solicitor or Deputy Crown Solicitor, and
- (c) 5 other public officers appointed by the Director of Finance and Planning.

B. A Special Tenders Committee shall have the duties set forth herein.

Voting shall be by a majority of all members.

II. PREQUALIFICATION OF CONTRACTORS

A. Potential contractors will be prequalified following the system described.

B. Documents to be used in connection with the prequalification of contractors will be prepared and presented to the Bank for approval. Such documents shall specify the currency or currencies proposed to be utilised for payment and the criteria employed to determine the eligibility of prospective contractors under the rules established for the utilisation of such currency or currencies.

- C. A Register of eligible prospective contractors will be maintained by the Special Tenders Committee.
- D. Such Register will be opened by placing notices in at least two (2) newspapers of general circulation in Barbados inviting interested contractors to apply for registration. Copies of notices will be sent at the same time to all embassies or consulates of the member countries of the Bank, as well as other embassies located either in Barbados or in the nearest country.
- E. The notices shall contain all relevant information necessary to enable a prospective contractor to apply for inclusion in the Register, including a brief description of the Project and the participation of the Bank in the financing, including any limitations on the origin of the goods and services, and the nationality of the prospective contractor.
- F. The Tenders Committee shall review the qualifications of prospective contractors, which review will be forwarded through the Officer-in-Charge of the Project Execution Unit to the Bank for comment and clearance.
- G. Thereafter, the Tenders Committee will notify each contractor of the results of the review, within thirty (30) days of receipt of applications.
- H. Rejected contractors may request reconsideration of applications which shall be treated as new requests.
- I. The Register shall be closed not more than 30 days prior to the date it is anticipated invitations to tender will be sent to prospective contractors provided, however, that 90 days prior to such date of closing, notice of the intention to close the Register will be published following the procedures set forth in D and E above. Such notice shall also indicate the date of the proposed invitation to tender as well as specifying the works to be undertaken.

Applications received prior to 30 days before the anticipated invitation to tender shall be treated as in F and G above. All others shall be returned.

- J. The Register shall be reopened no later than 30 days following award of previous contract or 30 days following determination that all tenders are to be rejected, until all works have been contracted. The procedure for reopening shall follow A to I above.

III. INVITATIONS TO TENDER

- A. Invitations shall be sent to all contractors on Register with description of works to be tendered indicating where and when bidding documents, specifications, etc. may be obtained and time and place tenders will be opened. Such invitations shall indicate clearly the currency or currencies proposed to be utilised for payment and the criteria to be employed to determine whether a prospective contractor is eligible under the rules established for the utilisation of such currency or currencies.
- B. The period for presentation of tenders shall be not less than 45 days from date of invitation to tender.
- C. Prior to the issuance of invitations to tender, tender documents, final engineering plans, specifications and cost estimates pertaining to the installation to be constructed along with the text of the contract proposed to be entered into with the successful tenderer shall have been approved by the Bank.
- D. Tenders, together with evidence of surety, shall be submitted in sealed envelopes and shall be treated pursuant to Section 143 of the Financial Rules.
- E. (1) On the date and place set for opening of tenders, which place shall be open to all persons who have submitted tenders, the Chairman and other member by whom a key is kept pursuant to D shall unlock the box and remove and open the tenders found therein.
- (2) The Chairman shall announce the tenders received from contractors on the Register and other tenders shall be rejected.
- (3) The Chairman and other members of the Committee shall initial the tenders received from contractors on Register and shall cause a note to be taken of the number of such tenders and such further information as the Committee may require.

- F. Tenders eligible for consideration shall be evaluated by the Project Execution Unit and returned to the Tenders Committee with recommendations for the decision of the Committee. The lowest eligible tender shall normally be recommended for award.
- G. The tender recommended for award together with a report analysing all tenders shall be submitted to the Minister for his review. Upon receipt of approval by the Minister, the Officer-in-Charge of the Project Execution Unit shall submit the tender proposed for award as well as the analysis report to the Bank for its comments and clearance.
- H. Subsequent to the acceptance by the Bank of the report and concurrence with the proposed award, the Officer-in-Charge of the Project Execution Unit shall prepare the necessary documentation for the authorisation of award to the successful tenderer.
- I. In every contract awarded under these procedures, a clause shall be inserted providing that the contract may be cancelled in cases where there is evidence that:
 - (a) the contractor or his agent has offered or given to any person any gift or consideration of any kind as an inducement or reward for doing or omitting to do, any act in relation to the obtaining or execution of the contract;
 - (b) the contractor has shown favour or disfavour to any person in relation to the contract;
 - (c) the contractor or his agent in relation to any contract with the Borrower has committed an offence under the Prevention of Corruption Act, 1929.
- J. When a tender has been accepted, written notice of its acceptance shall be given to the person who submitted the tender and he shall by said notice, be required to enter into a formal contract with the Borrower. A formal contract shall be prepared and shall be in such form and shall contain such terms, conditions and provisions as may be considered necessary, which the Bank shall have approved prior to signing thereof. Copies of the notice to the successful tenderer shall be sent to all persons who submitted tenders.

IV. ACQUISITION OF GOODS, MATERIAL AND EQUIPMENT

The procedures for the acquisition of goods, materials and equipment shall follow those set forth herein, except that prequalification need not be required, in which case notice of invitation to tender shall be published and sent to embassies and consulates as set forth in II.D containing full specification of the goods, etc. and other information set forth in III.A. Rules III.B to I shall be followed.

V. SPECIAL CONDITIONS

- A. Whenever the goods and services to be acquired are totally or partially financed with the resources of the Loan, the procedures and specific tender requirements shall permit free participation of bidders in or from countries of the Bank or from other countries eligible to participate in tenders with respect to the acquisition of services, machinery, equipment and other materials for the Project and for the awarding of construction contracts. Consequently, such procedures and/or specific requirements shall not contain any condition which may impede or restrict the participation of such bidders.
- B. Tenders may be limited to national entities only when the sole source of financing is the Borrower's local contribution.
- C. Tenders will be presented with an indication of the origin of all goods. At the same time tenders should indicate the origin and costs of any technical services from outside Barbados. In the case of construction firms, evidence shall be presented that such firms are from an eligible country.

ANNEX C

SELECTION AND CONTRACTING OF CONSULTING FIRMS AND/OR INDIVIDUAL EXPERTS

In the selection and contracting of consulting firms and/or individual experts (hereinafter referred to without distinction as "Consultants") necessary for execution of the Project, the following shall be applicable:

I. DEFINITIONS

The following definitions are established:

- 1.01 An individual expert is any professional or technician specialised in some form of science, art or craft.
- 1.02 A consulting firm is any legally constituted association, composed primarily of professional personnel, for the purpose of offering consulting services, technical advice, expert opinions, and professional services of other kinds.

For purposes of this Annex, non-profit organisations such as universities, foundations, autonomous or semiautonomous organisations and international organisations which offer consulting services, shall be considered as consulting firms.

II. CONFLICTS OF INTEREST

- 2.01 Resources of the Bank shall not be used to contract Consultants from the country of the Borrower if they are part of the regular or temporary staff of the State or of the institution which receives the Financing or is the beneficiary of the services of the experts, or if they have pertained to such entity within the six months prior to one of the following dates: (a) that of the presentation of the application; or (b) that of the selection of the individual expert, unless the Bank agrees to reduce that period.

III. ELIGIBILITY AND NATIONALITY REQUIREMENTS

- 3.01 The Borrower shall not establish in the implementation of the procedures set forth in this Annex provisions or conditions which may restrict or impede the participation of Consultants from member countries of the Bank.

3.02 Only Consultants who are nationals of countries that are members of the Bank may be contracted. To determine the nationality of a consulting firm the following criteria shall be considered:

- (a) The country in which the firm is duly established or legally organised.
- (b) The country in which the firm maintains its principal place of business.
- (c) The nationality of any firms or the citizenship or the bona fide residency of individuals possessing ownership, with the right to participate in profits, of more than fifty percent (50%) of the consulting firm, as established by the certification of a duly authorised officer of such firm.
- (d) The existence of arrangements whereby a substantial portion of the profits or other tangible benefits of the firm accrues to firms or individuals of a given nationality.
- (e) A determination by the Bank that the firm constitutes an integral part of the economy of a country, as evidenced by bona fide residency in the country of a substantial portion of the executive, professional and technical personnel of the firm; and that the firm has available in the country the operating equipment or other elements necessary to provide the services to be contracted.

3.03 The nationality requirements established by the Bank shall also be applicable to firms proposed to provide part of the respective services in joint venture with or under sub-contract to a qualified consulting firm which itself meets the nationality requirements.

3.04 The nationality of an individual expert shall be established by means of the individual's passport or other official document of identity. The Bank, however, may allow exceptions to this rule in those cases in which the individual expert, not being eligible by reason of nationality, (i) has established his domicile in an eligible country, is legally entitled to work there (as other than an international civil servant) and has no known intention of returning to his country of origin in the immediate future, or (ii) has established permanent domicile in an eligible country and has resided therein for at least five years.

IV. PROCEDURES FOR SELECTION AND CONTRACTING

A. Selection and contracting of consulting firms

4.01 In the selection and contracting of consulting firms:

(a) Prior to the selection of the firm, the Borrower shall submit the following to the agreement of the Bank:

(i) The procedure to be used in selecting and contracting the firm. If it is estimated that the cost of the services will not exceed fifty thousand United States dollars (US\$50,000) or its equivalent, calculated in accordance with the provisions of Article 3.05(a) of the General Rules, it shall be sufficient that a private competition for consulting services be carried out, or that some other similar method be applied. If it is expected, on the other hand, that the cost will exceed such amount, the selection and contracting shall be advertised in the national press and, if warranted by the complexity and degree of specialization of the advisory assistance requested, in specialized foreign publications. Furthermore, the Bank shall be informed of these advertisements, and clippings thereof shall be sent to it specifying the date and the name of the publication in which they have appeared.

(ii) The terms of reference (specifications) describing the work to be done by the firm, together with an estimate of the cost; and

(iii) A list of at least three and no more than six firms from which proposals for the work would be invited.

(b) Once the Bank has approved the foregoing requirements, the approved firms shall be invited to present proposals, in conformity with the procedures and terms of reference approved.

(c) In the invitations to present proposals the use of one or the other of the following procedures shall be specified, as appropriate:

(i) In the first case, a single sealed envelope including only the technical proposal, without a

price quotation, shall be used. The Borrower shall examine the proposals received and establish their order of merit. If the complexity of the case so requires, the Borrower may resort at its own expense to a group of consultants to review the proposals and provide technical and expert advice in establishing the order of merit.

Once an order of merit has been established among the firms, the firm listed as first shall be invited to negotiate a contract. During these negotiations, the details of the terms of reference shall be reviewed completely to assure full and mutual understanding with the firm; the contractual and legal requirements of the agreement shall be reviewed, and finally, detailed costs shall be developed. If agreement cannot be reached with the firm on the terms of the contract, it shall be notified in writing that its proposal has been rejected and negotiations shall be initiated with the second firm and so on until a satisfactory agreement has been reached.

- (ii) In the second case two sealed envelopes shall be used for presenting proposals, the first containing the technical proposal exclusive of costs and the second containing the proposed costs for the services.

The Borrower shall analyse the technical proposals and establish their order of merit. Contract negotiations shall commence with the firm offering the best technical proposal. The second envelope presented by this firm shall be opened in the presence of one or more of its representatives and shall be utilised in the contract negotiations. All the second envelopes presented by the other firms shall remain sealed and, if an agreement is reached with the first firm, they shall be returned to the respective firms. If an agreement on the terms of the contract is not reached with the first firm, it shall be notified in writing of its rejection and negotiations shall be initiated with the second firm, and so on until a satisfactory agreement is reached.

Inability to agree on detailed costs or compensation for services, or a judgment on the part of the Borrower that such costs or compensation are inappropriate or excessive, shall be sufficient cause for notifying the rejection of the proposal and for the initiation of negotiations with the firm which follows in the order of merit. Once a firm has been rejected it shall not be recalled for further negotiations on the contract.

- (d) The text of the proposed contract negotiated with the consulting firm shall be submitted to the approval of the Bank before the Contract is signed and the services are initiated. A true copy of the text as signed shall be promptly sent to the Bank.

B. Selection and contracting of individual experts

4.02 In the case of the selection and contracting of individual experts:

- (a) Before the selection of the experts, the Borrower shall submit the following to the consideration of the Bank:
 - (i) the selection procedure;
 - (ii) the terms of reference (specifications) and the schedule of the services to be performed in the respective study;
 - (iii) the names of the experts tentatively selected, setting forth in detail their nationality and domicile, background, professional experience and knowledge of languages; and
 - (iv) the form of contract to be used in retaining the experts.
- (b) Once the Borrower and the Bank have approved the foregoing requirements, the Borrower shall proceed to contract the experts. The contract to be entered into with each of them shall be consistent with the form of contract which the Bank and the Borrower shall have agreed upon. A true copy of the signed text of each contract shall be sent promptly to the Bank.

V. CURRENCIES OF PAYMENT TO CONSULTANTS

5.01 The following provisions are established with respect to the currencies with which Consultants shall be paid:

- (a) Payments to consulting firms: Contracts entered into with consulting firms shall reflect one of the following formulations, as the case may be:
 - (i) If the consulting firm is domiciled in the country in which it is to perform the services, its compensation shall be paid exclusively in the currency of that country, except for expenses incurred in foreign exchange for foreign travel or per diem expenses abroad, which shall be reimbursed in dollars, or the equivalent in other currencies that form part of the Financing, except that of the country wherein the study is made.
 - (ii) If the consulting firm is not domiciled in the country in which it is to perform the services, the highest possible percentage of its compensation shall be paid in the currency of such country and the rest in dollars or the equivalent in other currencies that form part of the Financing, except that of such country, with the understanding that the part corresponding to per diem expenses shall be paid in the currency of the country or countries in which the respective services are to be performed. In the event that the percentage to be paid in the currency of the country in which the services are to be performed is less than 30% of the total compensation of the consulting firm, a complete and detailed justification shall be submitted to the Bank for its examination and comments.
 - (iii) In the case of a consortium composed of firms domiciled in the respective country and firms not domiciled therein, the part of the compensation which corresponds to each of the members shall be paid in accordance with paragraphs (i) and (ii) above, as pertinent.
 - (iv) The provisions of Article 3.05(a) of the General Rules shall apply with respect to the rate of exchange.

- (b) Payments to individual experts: The same rules as are set forth in subsection (a) shall be applied.

VI. RECOMMENDATIONS OF CONSULTANTS

- 6.01 It is understood that the opinions and recommendations of the Consultants obligate neither the Borrower nor the Bank, and that they reserve the right to put forward such observations or exceptions as they deem appropriate.

VII. SCOPE OF COMMITMENT OF THE BANK

- 7.01 It is agreed that the Bank assumes no commitment to finance all or part of any programme or project which, directly or indirectly, might result from the services performed by the Consultants or from the recommendations put forward by them.