

No. 13658

---

**INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
and  
PHILIPPINES**

**Loan Agreement—*Industrial Investment and Smallholder Tree-Farmers Project* (with schedules and General Conditions Applicable to Loan and Guarantee Agreements dated 15 March 1974). Signed at Washington on 12 June 1974**

*Authentic text: English.*

*Registered by the International Bank for Reconstruction and Development on 14 November 1974.*

---

**BANQUE INTERNATIONALE POUR  
LA RECONSTRUCTION ET LE DÉVELOPPEMENT  
et  
PHILIPPINES**

**Contrat d'emprunt — *Projet relatif à l'arboriculture : investissements industriels et petites exploitations* (avec annexes et Conditions générales applicables aux contrats d'emprunt et de garantie en date du 15 mars 1974). Signé à Washington le 12 juin 1974**

*Texte authentique : anglais.*

*Enregistré par la Banque internationale pour la reconstruction et le développement le 14 novembre 1974.*

## LOAN AGREEMENT<sup>1</sup>

AGREEMENT, dated June 12, 1974, between REPUBLIC OF THE PHILIPPINES (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

Whereas (A) The Borrower has requested the Bank to assist in the financing of the Project described in Schedule 2 to this Agreement by making the Loan as hereinafter provided;

(B) In carrying out the Project, the Borrower will relend the proceeds of the Loan to the Development Bank of the Philippines (hereinafter called DBP) under a Subsidiary Loan Agreement to be entered into between the Borrower and DBP; and

Whereas the Bank has agreed, on the basis *inter alia* of the foregoing, to make the Loan to the Borrower upon the terms and conditions hereinafter set forth;

Now therefore the parties hereto hereby agree as follows:

### *Article I.* GENERAL CONDITIONS; DEFINITIONS

*Section 1.01.* The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated March 15, 1974,<sup>2</sup> with the same force and effect as if they were fully set forth herein, subject, however, to the following modification thereof (said General Conditions Applicable to Loan and Guarantee Agreements of the Bank, as so modified, being hereinafter called the General Conditions):

Section 6.03 is deleted and replaced by the following new Section:

“SECTION 6.03. *Cancellation by the Bank.* If (a) the right of the Borrower to make withdrawals from the Loan Account shall have been suspended with respect to any amount of the Loan for a continuous period of thirty days, or (b) by the date specified in paragraph (c) of Section 2.03 of the Loan Agreement no applications or requests permitted under paragraph (a) or paragraph (b) of such Section shall have been received by the Bank in respect of any portion of the Loan, or having been so received, shall have been denied, or (c) after the Closing Date an amount of the Loan shall remain unwithdrawn from the Loan Account, the Bank may by notice to the Borrower terminate the right of the Borrower to submit such applications or requests or to make withdrawals from the Loan Account, as the case may be, with respect to such amount or portion of the Loan. Upon the giving of such notice such amount or portion of the Loan shall be cancelled.”

*Section 1.02.* Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the

<sup>1</sup> Came into force on 9 September 1974, upon notification by the Bank to the Government of the Philippines.

<sup>2</sup> See p. 288 of this volume.

respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and DBP pursuant to Section 3.02(a) of this Agreement;

(b) "peso" means the currency unit of the Borrower and "foreign currency" means any currency other than the currency of the Borrower;

(c) "Charter" means the Charter of DBP as provided in RA 2081, dated June 14, 1958, as amended to the date of this Agreement;

(d) "Statement of Operating Policies and Procedures for Medium- and Large-Scale Industrial Financing" means the statement of financing policy for projects in the industrial sector approved by the Board of Governors of DBP on May 29, 1974;

(e) "Part A Beneficiary" means an individual, partnership, cooperative, association or private corporation to which DBP proposes to make or has made a Part A Sub-loan;

(f) "Part A Sub-loan" means a loan under Part A of the Project, made or proposed to be made by DBP exclusively out of the proceeds of the Loan to a Part A Beneficiary to finance expenditures for imported goods and services for a Part A Investment Project;

(g) "Free-limit Part A Sub-loan" means a Part A Sub-loan in an amount not exceeding the equivalent of \$1,000,000, even when added to the outstanding amount of any other Part A Sub-loan made for the same Part A Investment Project; provided that any Part A Sub-loan which when added to all other Free-limit Part A Sub-loans financed or proposed to be financed out of the proceeds of the Loan would exceed the equivalent of \$20,000,000, shall not be a Free-limit Part A Sub-loan; and provided further that the foregoing amounts may be changed from time to time by agreement between the Borrower and the Bank;

(h) "Part A Investment Project" means a specific investment project to be carried out by a Part A Beneficiary utilizing the proceeds of a Part A Sub-loan;

(i) "Part B Beneficiary" means an individual, partnership, cooperative or association to which DBP proposes to make or has made a Part B Sub-loan;

(j) "Part B Sub-loan" means a loan in pesos under Part B of the Project, made or proposed to be made by DBP out of the proceeds of the Loan to a Part B Beneficiary to finance a Part B Investment Project;

(k) "Part B Investment Project" means a specific tree-farming development project to be carried out by a Part B Beneficiary utilizing the proceeds of a Part B Sub-loan; and

(l) "PICOP" means the Paper Industries Corporation of the Philippines, a corporation organized, established and operating under the laws of the Borrower, and such term includes any subsidiary thereof and any successor thereto.

## Article II. THE LOAN

*Section 2.01.* The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies equivalent to fifty million dollars (\$50,000,000).

*Section 2.02.* The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule shall be amended from time to time, for amounts disbursed (or, if the Bank shall so agree, amounts requested to be disbursed) under Part A or Part B Sub-loans, to finance the reasonable cost of goods and services required for Part A or Part B Investment Projects, respectively, and to be financed under the Loan Agreement; provided, however, that, except as the Bank shall otherwise agree, no withdrawal shall be made on account of the following:

- (a) expenditures in pesos or for goods or services supplied from the Philippines, in the case of a Part A Sub-loan;
- (b) disbursements made under a Sub-loan prior to the date of this Agreement;
- (c) a Part A Sub-loan unless (i) the Part A Sub-loan shall have been approved by the Bank, or (ii) the Part A Sub-loan shall be a Free-limit Part A Sub-loan for which the Bank shall have authorized withdrawals from the Loan Account; and
- (d) expenditures made by a Part A Beneficiary more than ninety days prior to the date on which the Bank shall have received (i) the request and information required by Section 2.03(b) hereof, in the case of a Free-limit Part A Sub-loan, or (ii) the application and information required by Section 2.03(a) hereof, in the case of any other Part A Sub-loan.

*Section 2.03.* (a) When submitting a Part A Sub-loan (other than a Free-limit Part A Sub-loan) to the Bank for approval, the Borrower shall furnish or shall cause to be furnished to the Bank an application, in form satisfactory to the Bank, together with a description of the Part A Beneficiary and an appraisal of the Part A Investment Project (including a description of the expenditures proposed to be financed out of the proceeds of the Loan) and the proposed terms and conditions of the Part A Sub-loan including the schedule of its amortization and such other information as the Bank shall reasonably request.

(b) Each request by the Borrower for authorization to make withdrawals from the Loan Account in respect of a Free-limit Part A Sub-loan shall contain a summary description of the Part A Beneficiary and the Part A Investment Project (including a description of the expenditures proposed to be financed out of the proceeds of the Loan) and the terms and conditions of such Free-limit Part A Sub-loan, including the schedule of its amortization.

(c) Except as the Bank and the Borrower shall otherwise agree, applications and requests made pursuant to the provisions of paragraphs (a) and (b) of this Section shall be submitted to the Bank on or before September 30, 1976.

*Section 2.04.* The Closing Date shall be December 31, 1981 or such other date as shall be agreed between the Borrower and the Bank.

*Section 2.05.* The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ( $\frac{3}{4}$  of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

*Section 2.06.* The Borrower shall pay interest at the rate of seven and one-quarter per cent ( $7\frac{1}{4}\%$ ) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

*Section 2.07.* Interest and other charges shall be payable semi-annually on March 1 and September 1 in each year.

*Section 2.08.* The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

*Section 2.09.* The Secretary of Finance of the Borrower and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 8.10 of the General Conditions.

*Section 2.10.* DBP is designated as representative of the Borrower for the purpose of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

### *Article III. EXECUTION OF THE PROJECT*

*Section 3.01.* The Borrower shall cause the Project to be carried out by DBP in accordance with its Charter and with due diligence and efficiency, in conformity with sound administrative and financial practices, and with qualified management and personnel, and shall provide DBP, or cause DBP to be provided, promptly as needed, the funds, facilities, services and other resources required for the purpose.

*Section 3.02.* (a) The Borrower shall relend to DBP the proceeds of the Loan under a Subsidiary Loan Agreement to be entered into between the Borrower and DBP, under terms and conditions acceptable to the Bank, including those set forth in paragraph 1 of Schedule 4 to this Agreement.

(b) The Borrower shall exercise its rights under the Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Bank and to accomplish the purposes of the Loan, and except as the Bank shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Subsidiary Loan Agreement or any provision thereof.

(c) The Borrower shall take and shall cause all its agencies to take all action which shall be necessary on their part to enable DBP to perform all of its obligations under the Subsidiary Loan Agreement and shall not take or permit to be taken any action which might interfere with such performance.

*Section 3.03.* Except as the Bank shall otherwise agree, the Borrower shall cause DBP:

- (a) to on-lend the funds relent to it under the Subsidiary Loan Agreement, for purposes of carrying out the Project, in accordance with the Lending Guidelines set forth in Schedule 4 to this Agreement, as such Schedule may be amended from time to time, and, with respect to Part A of the Project, in accordance also with DBP's Statement of Operating Policies and Procedures for Medium- and Large-Scale Industrial Financing; and
- (b) to exercise its rights under the agreements providing for Part A or Part B Sub-loans in such manner as: (i) to comply with the Borrower's obligation under this Agreement; and (ii) to achieve the purposes of the Project.

*Section 3.04.* Except as the Bank shall otherwise agree, the Borrower shall cause DBP not to make any Part A Sub-loan in an amount exceeding the equivalent of \$5,000,000 or in an amount which would exceed such limit when

added to the outstanding principal amount of all other Part A Sub-loans made for the same Part A Investment Project.

*Section 3.05.* Except as the Bank shall otherwise agree, the Borrower shall cause DBP:

- (a) to use its best efforts to enter into a contract with PICOP for purposes of the carrying out of Part B of the Project, on terms and conditions which shall include those set forth in paragraph 4 of Schedule 4 to this Agreement; provided, however, that no Part B Sub-loan shall be made until DBP shall have entered into such contract with PICOP on terms and conditions satisfactory to the Bank; and
- (b) to exercise its rights under such contract in such manner as to protect the interests of the Borrower and the Bank and to accomplish the purposes of the Loan, and not to assign, amend, abrogate or waive any provision thereof.

*Section 3.06.* The Borrower shall provide or shall cause DBP to provide to Part B Beneficiaries such technical assistance as shall be required to enable them to make adequate use of the proceeds of Part B Sub-loans.

*Section 3.07.* The Borrower shall cause DBP to establish and maintain two separate accounts to record all and solely DBP's receipts and payments for or in connection with Part A and Part B of the Project, respectively, including: (i) amounts received from and payments made to the Borrower under the Subsidiary Loan Agreement; and (ii) amounts disbursed and received under Part A and Part B Sub-loans.

*Section 3.08.* The Borrower shall cause DBP to furnish to the Bank all information the Bank shall reasonably request concerning the administration, operations, resources and expenditures of DBP, including its lending activities in the industrial sector.

#### Article IV. OTHER COVENANTS

*Section 4.01.* (a) It is the mutual intention of the Borrower and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets.

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

(c) The foregoing representation and undertaking shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; and (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

As used in this Section, the term "governmental assets" means assets of the Borrower or of any agency of the Borrower including the Central Bank of the Philippines or any institution performing the functions of a central bank for the Borrower.

(d) The Borrower further undertakes that, within the limits of the laws in force in its territories, it will make the foregoing undertaking effective with respect to liens on the assets of its political subdivisions and their agencies, and to the extent that the Borrower is unable within the limits of the laws in force in its territories to make this undertaking effective, the Borrower will give to the Bank an equivalent lien satisfactory to the Bank.

*Section 4.02.* (a) The Borrower shall cause DBP to maintain records adequate (i) to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of DBP in respect of the Project, and (ii) to reflect the progress and cost of the Project, including the progress and cost of each Part A Investment Project.

(b) The Borrower shall cause DBP to: (i) have its accounts and financial statements (balance sheets, statements of income and expenses and related statements) including the accounts referred to in Section 3.07 hereof, for each fiscal year audited in accordance with sound auditing principles consistently applied, by the Commission on Audit of the Borrower; (ii) furnish to the Bank as soon as available, but in any case not later than three months after the end of each such year, (A) certified copies of DBP's financial statements for such year as so audited and (B) the report of such audit by said Commission on Audit, of such scope and in such detail as the Bank shall have reasonably requested; and (iii) furnish to the Bank such other information concerning the accounts and financial statements of DBP and the audit thereof as the Bank shall from time to time reasonably request.

#### *Article V. REMEDIES OF THE BANK*

*Section 5.01.* The Bank may, upon the occurrence of any of the events specified in Section 6.02 or 7.01 of the General Conditions or in Section 5.02 or 5.03 of this Agreement and the continuance thereof for the period, if any, specified for the purpose: (i) suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account; or (ii) declare the principal of the Loan then outstanding to be due and payable immediately together with the interest and other charges thereon.

*Section 5.02.* For the purposes of Section 6.02 of the General Conditions, the following additional events are specified:

- (a) a default shall have occurred in the performance of any obligation on the part of the Borrower or of DBP under the Subsidiary Loan Agreement;
- (b) a change shall have been made in the Charter which will materially and adversely affect the carrying out of the Project; and
- (c) a change shall have been made in the Statement of Operating Policies and Procedures for Medium- and Large-Scale Industrial Financing without the Bank's concurrence.

*Section 5.03.* For the purposes of Section 7.01 of the General Conditions, the following additional events are specified:

- (a) any of the events specified in paragraph (a) or (c) of Section 5.02 of this Agreement shall occur and shall continue for a period of 60 days after notice thereof shall have been given by the Bank to the Borrower;
- (b) the event specified in paragraph (b) of Section 5.02 of this Agreement shall occur.

*Article VI. EFFECTIVE DATE; TERMINATION*

*Section 6.01.* The following event is specified as an additional condition to the effectiveness of the Loan Agreement within the meaning of Section 12.01(c) of the General Conditions, namely, that the execution and delivery of the Subsidiary Loan Agreement on behalf of the Borrower and DBP, respectively, have been duly authorized or ratified by all necessary corporate and governmental action.

*Section 6.02.* The following is specified as an additional matter, within the meaning of Section 12.02(c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank, namely, that the Subsidiary Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and DBP, respectively, and constitutes a valid and binding obligation of the Borrower and DBP in accordance with its terms.

*Section 6.03.* The date September 16, 1974, is hereby specified for the purposes of Section 12.04 of the General Conditions.

*Article VII. REPRESENTATIVE OF THE BORROWER; ADDRESSES*

*Section 7.01.* The Secretary of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

*Section 7.02.* The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Secretary of Finance  
Department of Finance  
Manila, Philippines

Cable address:  
Secfinance  
Manila

For the Bank:

International Bank for Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:  
Intbafrad  
Washington, D.C.



IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Agreement to be signed in their respective names and to be delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of the Philippines:

By CESAR VIRATA  
Authorized Representative

International Bank for Reconstruction and Development:

By RAYMOND J. GOODMAN  
Acting Regional Vice President  
Asia

## SCHEDULE 1

### ALLOCATION OF THE PROCEEDS OF THE LOAN

The table below sets forth the Categories of items to be financed out of the proceeds of the Loan and the allocation of the amounts of the Loan to each Category:

<i>Category</i>	<i>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</i>
I. Part A Sub-loans .....	48,000,000
II. Part B Sub-loans .....	<u>2,000,000</u>
TOTAL	<u>50,000,000</u>

## SCHEDULE 2

### DESCRIPTION OF THE PROJECT

The purpose of the Project is to assist the Borrower in financing, through DBP, specific development projects in the Philippines to contribute to the economic and social development of the country.

*Part A:* Provision of credit to finance specific industrial development projects in the manufacturing, public utilities, mining and tourism sectors.

*Part B:* Provision of credit to smallholders in the Bislig Bay area of Mindanao to assist them in developing their holdings for *Albizia falcata* tree crops.

## SCHEDULE 3

## AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>
March 1, 1979 .....	1,120,000	March 1, 1986 .....	1,845,000
September 1, 1979 .....	1,165,000	September 1, 1986 .....	1,915,000
March 1, 1980 .....	1,205,000	March 1, 1987 .....	1,985,000
September 1, 1980 .....	1,250,000	September 1, 1987 .....	2,055,000
March 1, 1981 .....	1,295,000	March 1, 1988 .....	2,130,000
September 1, 1981 .....	1,340,000	September 1, 1988 .....	2,205,000
March 1, 1982 .....	1,390,000	March 1, 1989 .....	2,285,000
September 1, 1982 .....	1,440,000	September 1, 1989 .....	2,370,000
March 1, 1983 .....	1,490,000	March 1, 1990 .....	2,455,000
September 1, 1983 .....	1,545,000	September 1, 1990 .....	2,545,000
March 1, 1984 .....	1,600,000	March 1, 1991 .....	2,635,000
September 1, 1984 .....	1,660,000	September 1, 1991 .....	2,735,000
March 1, 1985 .....	1,720,000	March 1, 1992 .....	2,840,000
September 1, 1985 .....	1,780,000		

\* To the extent that any portion of the Loan is repayable in a currency other than dollars (see General Conditions, Section 4.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

## PREMIUMS ON PREPAYMENT

The following percentages are specified as the premiums payable on repayment in advance of maturity of any portion of the principal amount of the Loan pursuant to Section 3.05(b) of the General Conditions:

<i>Time of Prepayment</i>	<i>Premium</i>
Not more than three years before maturity .....	1 <sup>1</sup> / <sub>4</sub> %
More than three years but not more than six years before maturity . . .	2 %
More than six years but not more than eleven years before maturity .....	3 <sup>1</sup> / <sub>2</sub> %
More than eleven years but not more than fourteen years before maturity .....	5 <sup>1</sup> / <sub>4</sub> %
More than fourteen years but not more than sixteen years before maturity .....	6 <sup>1</sup> / <sub>4</sub> %
More than sixteen years before maturity .....	7 <sup>1</sup> / <sub>4</sub> %

## SCHEDULE 4

## LENDING GUIDELINES

1. *Subsidiary Loan*

(a) *Exchange risk.* The proceeds of the Loan allocated to finance Part A of the Project shall be on-lent by the Borrower to DBP in the currency or currencies in which withdrawals from the Loan Account shall be made in accordance with Section 4.01 of the General Conditions; i.e., the respective currencies in which the expenditures to be financed out of the proceeds of the Loan have been paid or are payable. DBP shall

repay the principal so on-lent to it in the same currency or currencies in which such withdrawals were made, and the amount repayable in each currency shall be the amount withdrawn in that currency.

The proceeds of the Loan allocated to finance Part B of the Project shall be on-lent by the Borrower to DBP in pesos, in an amount equivalent on the date of withdrawal to the amount withdrawn from the Loan Account for that purpose, and DBP shall repay as principal the same amount of pesos so on-lent to it.

(b) *Rate of interest.* 7 1/4% per year on outstanding amounts, payable in the same currency as the corresponding portion of the principal.

## 2. Part A Sub-loans

(a) *Exchange risk.* Part A Sub-loans shall be made in the foreign currency or currencies in which the expenditures to be financed have been paid or are payable, and the principal of such Sub-loans shall be repaid in the same currency or currencies in which they were made, and the amount repayable in each currency shall be the amount withdrawn in that currency.

(b) *Rate of interest.* Part A Sub-loans shall carry interest at the current rate charged by DBP from time to time for other loans in the same sector under similar conditions, and shall be payable in the same currency of the corresponding portion of the principal.

(c) *Repayment terms.* Part A Sub-loans shall be repaid in not more than 16 years, including the grace period.

(d) *Other terms.* Any Part A Sub-loan shall be made on terms whereby DBP shall obtain, by written contract with the Part A Beneficiary, or by other appropriate legal means, rights adequate to protect the interests of the Bank, the Borrower and DBP, including the right of DBP to: (i) require the Part A Beneficiary to carry out and operate the Part A Investment Project with due diligence and efficiency and in accordance with sound technical, financial and managerial standards and to maintain adequate records; (ii) require that (1) the goods and services to be financed out of the proceeds of the Loan shall be purchased at a reasonable price, account being taken also of other relevant factors such as time of delivery and efficiency and reliability of the goods and availability of maintenance facilities and spare parts therefor, and, in the case of services, of their quality and the competence of the parties rendering them and (2) such goods and services shall be used exclusively in the carrying out of the Part A Investment Project; (iii) inspect, by itself or jointly with representatives of the Bank if the Bank shall so request, such goods and the sites, works, plants and construction included in the Part A Investment Project, the operation thereof, and any relevant records and documents; (iv) require: (1) the Part A Beneficiary to take out and maintain with responsible insurers such insurance, against such risks and in such amounts, as shall be consistent with sound business practice; and (2) that, without any limitation upon the foregoing, such insurance cover marine, transit and other hazards incident to the acquisition, transportation and delivery of goods financed out of the proceeds of the Loan to the place of use or installation, and that any indemnity thereunder be payable in a currency freely usable by the Part A Beneficiary to replace or repair such goods; (v) obtain all such information as the Bank or DBP shall reasonably request relating to the foregoing and to the administration, operations and financial condition of the Part A Beneficiary; and (vi) suspend or terminate the right of the Part A Beneficiary to the use of the proceeds of the Loan upon its failure to perform any of its obligations under its contract with DBP.

## 3. Part B Sub-loans

(a) *Currency.* Part B Sub-loans shall be made in pesos.

(b) *Rate of interest.* Part B Sub-loans shall carry interest at the rate of 12% per year on outstanding amounts.

(c) *Term.* Repayment in 15 years, including 8 years of grace.

(d) *Eligibility.* Smallholders who: (i) have occupied at least 5 hectares of alienable and disposable land for at least 5 years, even if they do not have legal title to the land; (ii) have a signed marketing contract with PICOP; and (iii) would develop holdings within 100 km. of PICOP's mill at Bislig in eastern Mindanao.

(e) *Beneficiary's contribution.* Part B Beneficiaries shall be required to contribute from their own resources (including their own labor) not less than 25% of the cost of each Part B Investment Project.

#### 4. *Contract between DBP and PICOP*

The terms and conditions of such contract shall include the following undertakings by PICOP:

- (a) to purchase all the wood production of Part B Sub-loan Beneficiaries;
- (b) to pay the prevailing market price, and in any case a minimum stumpage price of 15 pesos per cubic meter, for tree-farm pulpwod;
- (c) to review annually such minimum price, starting in the last quarter of 1975; and to revise it, if necessary, to ensure that the producers can obtain a reasonable return on their investment;
- (d) to provide tree seedlings to Part B Sub-loan Beneficiaries, as required by them to carry out their Part B Investment Project;
- (e) to provide Part B Sub-loan Beneficiaries with adequate technical assistance; and
- (f) to continue its program of insect prevention and control in the area where Part B of the Project will be carried out.

### GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS, DATED MARCH 15, 1974

#### *Article I.* APPLICATION TO LOAN AND GUARANTEE AGREEMENTS

SECTION 1.01. *Application of General Conditions.* These General Conditions set forth certain terms and conditions generally applicable to loans made by the Bank. They shall apply to any loan agreement providing for any such loan and to any guarantee agreement with a member of the Bank providing for the guarantee of any such loan to such extent and subject to such modifications as shall be provided in such agreements; provided, however, that in the case of a loan agreement between the Bank and a member of the Bank, references in these General Conditions to the "Guarantor" and the "Guarantee Agreement" shall be disregarded.

SECTION 1.02. *Inconsistency with Loan and Guarantee Agreements.* If any provision of a loan agreement or guarantee agreement is inconsistent with a provision of these General Conditions, the provision of the loan agreement or guarantee agreement, as the case may be, shall govern.

#### *Article II.* DEFINITIONS; HEADINGS

SECTION 2.01. *Definitions.* The following terms have the following meanings wherever used in these General Conditions:

1. The term Bank means International Bank for Reconstruction and Development.
2. The term Association means International Development Association.

3. The term Loan Agreement means the particular loan agreement to which these General Conditions shall have been made applicable, as such agreement may be amended from time to time; and such term includes these General Conditions as thus made applicable, all agreements supplemental to the Loan Agreement and all schedules to the Loan Agreement.

4. The term Loan means the loan provided for in the Loan Agreement.

5. The term Guarantee Agreement means the agreement between a member of the Bank and the Bank providing for the guarantee of the Loan, as such agreement may be amended from time to time; and such term includes these General Conditions as thus made applicable, all agreements supplemental to the Guarantee Agreement and all schedules to the Guarantee Agreement.

6. The term Borrower means the party to the Loan Agreement to which the Loan is made.

7. The term Guarantor means the member of the Bank which is a party to the Guarantee Agreement.

8. The term currency of a country means such coin or currency as at the time referred to is legal tender for the payment of public and private debts in that country.

9. The term dollars and the sign \$ mean dollars in currency of the United States of America.

10. The term Loan Account means the account opened by the Bank on its books in the name of the Borrower to which the amount of the Loan is credited.

11. The term Project means the project or program for which the Loan is granted, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between the Bank and the Borrower.

12. The term external debt means any debt payable in any medium other than currency of the member of the Bank which is the Borrower or the Guarantor, whether such debt is or may become payable absolutely or at the option of the creditor in such other medium.

13. The term Effective Date means the date on which the Loan Agreement and the Guarantee Agreement shall come into force and effect as provided in Section 12.03.

14. The term lien includes mortgages, pledges, charges, privileges and priorities of any kind.

15. The term assets includes property, revenues and claims of any kind.

16. The term taxes includes imposts, levies, fees and duties of any nature, whether in effect at the date of the Loan Agreement or Guarantee Agreement or thereafter imposed.

17. The term incurring of debt includes the assumption and guarantee of debt and any renewal, extension, or modification of the terms of the debt or of the assumption or guarantee thereof.

18. The term Closing Date means the date specified in the Loan Agreement as of which the Bank may by notice to the Borrower terminate the right of the Borrower to withdraw from the Loan Account any amount theretofore unwithdrawn.

SECTION 2.02. *References.* References in these General Conditions to Articles or Sections are to Articles or Sections of these General Conditions.

SECTION 2.03. *Headings.* The headings of the Articles and Sections and the Table of Contents are inserted for convenience of reference only and are not a part of these General Conditions.

*Article III. LOAN ACCOUNT; INTEREST AND OTHER CHARGES;  
REPAYMENT; PLACE OF PAYMENT*

SECTION 3.01. *Loan Account.* The amount of the Loan shall be credited to the Loan Account and may be withdrawn therefrom by the Borrower as provided in the Loan Agreement and in these General Conditions.

SECTION 3.02. *Commitment Charges.* The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate specified in the Loan Agreement. Such commitment charge shall accrue from a date sixty days after the date of the Loan Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Loan Account or shall be cancelled. The Borrower shall pay an additional commitment charge at the rate of one-half of one per cent ( $\frac{1}{2}$  of 1%) per annum on the principal amount of any special commitment entered into by the Bank pursuant to Section 5.02 and outstanding from time to time.

SECTION 3.03. *Interest.* The Borrower shall pay interest at the rate specified in the Loan Agreement on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time. Interest shall accrue from the respective dates on which amounts shall be so withdrawn.

SECTION 3.04. *Computation of Interest and Other Charges.* Interest and all other charges shall be computed on the basis of a 360-day year of twelve 30-day months.

SECTION 3.05. *Repayment.* (a) The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule to the Loan Agreement.

(b) The Borrower shall have the right, upon payment of all accrued interest and of the premium specified in said amortization schedule, and upon not less than forty-five days' notice to the Bank, to repay in advance of maturity (i) all of the principal amount of the Loan at the time outstanding, or (ii) all of the principal amount of any one or more maturities, provided that on the date of such prepayment there shall not be outstanding any portion of the Loan maturing after the portion to be prepaid.

(c) It is the policy of the Bank to encourage the repayment prior to maturity of portions of its loans retained by the Bank for its own account. Accordingly, the Bank will sympathetically consider, in the light of all circumstances then existing, any request of the Borrower that the Bank waive the payment of any premium payable under paragraph (b) of this Section on prepayment of any portion of the Loan which the Bank has not sold or agreed to sell.

SECTION 3.06. *Place of Payment.* The principal (including premium, if any) of, and interest and other charges on, the Loan shall be paid at such places as the Bank shall reasonably request.

*Article IV. CURRENCY PROVISIONS*

SECTION 4.01. *Currencies in which Withdrawals are to be Made.* Except as the Borrower and the Bank shall otherwise agree, withdrawals from the Loan Account shall be made in the respective currencies in which the expenditures to be financed out of the proceeds of the Loan have been paid or are payable; provided, however, that withdrawals in respect of expenditures in the currency of the member of the Bank which is the Borrower or the Guarantor shall be made in such currency or currencies as the Bank shall from time to time reasonably select.

SECTION 4.02. *Currency in which Principal and Premium are Payable; Maturities.* (a) The principal of the Loan shall be repayable in the several currencies withdrawn from the Loan Account and the amount repayable in each currency shall be the amount withdrawn in that currency, provided that, if withdrawal shall be made in any currency which the Bank shall have purchased with another currency for the purpose of such with-

drawal, the portion of the Loan so withdrawn shall be repayable in such other currency and the amount so repayable shall be the amount paid by the Bank on such purchase.

(b) Any premium payable under Section 3.05 on prepayment of any portion of the Loan shall be payable in the currency in which the principal of such portion of the Loan is repayable.

(c) The portion of the Loan to be repaid in any particular currency shall be repayable in such instalments as the Bank shall from time to time specify, provided that the amount of the Loan to be repaid on each maturity date shall remain as set forth in the amortization schedule to the Loan Agreement.

SECTION 4.03. *Currency in which Interest is Payable.* Interest on any portion of the Loan shall be payable in the currency in which the principal of such portion of the Loan is repayable.

SECTION 4.04. *Currency in which Commitment Charges are Payable.* The commitment charge and the charge for any special commitment pursuant to Section 5.02 shall be payable in dollars.

SECTION 4.05. *Purchase of Currencies.* The Bank will, at the request of the Borrower and on such terms and conditions as the Bank shall determine, use its best efforts to purchase any currency needed by the Borrower for payment of principal, interest and other charges required under the Loan Agreement upon payment by the Borrower of sufficient funds therefor in a currency or currencies to be specified by the Bank from time to time. In purchasing the currencies required the Bank shall be acting as agent of the Borrower and the Borrower shall be deemed to have made any payment required under the Loan Agreement only when and to the extent that the Bank has received such payment in the currency or currencies required.

SECTION 4.06. *Valuation of Currencies.* Whenever it shall be necessary for the purposes of the Loan Agreement or the Guarantee Agreement, or any other agreement to which these General Conditions shall be made applicable, to determine the value of one currency in terms of another, such value shall be as reasonably determined by the Bank.

SECTION 4.07. *Manner of Payment.* (a) Any payment required under the Loan Agreement or the Guarantee Agreement to be made to the Bank in the currency of any country shall be made in such manner, and in currency acquired in such manner, as shall be permitted under the law of such country for the purpose of making such payment and effecting the deposit of such currency to the account of the Bank with a depository of the Bank in such country.

(b) The principal (including premium, if any) of, and interest and other charges on, the Loan shall be paid without restrictions of any kind imposed by, or in the territory of, the member of the Bank which is the Borrower or the Guarantor.

#### Article V. WITHDRAWAL OF PROCEEDS OF LOAN

SECTION 5.01. *Withdrawal from the Loan Account.* The Borrower shall be entitled to withdraw from the Loan Account amounts expended or, if the Bank shall so agree, amounts to be expended for the Project in accordance with the provisions of the Loan Agreement and of these General Conditions. Except as shall be otherwise agreed between the Bank and the Borrower, no withdrawals shall be made on account of expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in, or services supplied from, such territories.

SECTION 5.02. *Special Commitment by the Bank.* Upon the Borrower's request and upon such terms and conditions as shall be agreed upon between the Bank and the Borrower, the Bank may enter into special commitments in writing to pay amounts to

the Borrower or others in respect of expenditures to be financed under the Loan Agreement notwithstanding any subsequent suspension or cancellation by the Bank or the Borrower.

SECTION 5.03. *Applications for Withdrawal or for Special Commitment.* When the Borrower shall desire to withdraw any amount from the Loan Account or to request the Bank to enter into a special commitment pursuant to Section 5.02, the Borrower shall deliver to the Bank a written application in such form, and containing such statements and agreements, as the Bank shall reasonably request. Applications for withdrawal, with the necessary documentation as hereinafter in this Article provided, shall be made promptly in relation to expenditures for the Project.

SECTION 5.04. *Evidence of Authority to Sign Applications for Withdrawal.* The Borrower shall furnish to the Bank evidence of the authority of the person or persons authorized to sign applications for withdrawal and the authenticated specimen signature of any such person.

SECTION 5.05. *Supporting Evidence.* The Borrower shall furnish to the Bank such documents and other evidence in support of the application as the Bank shall reasonably request, whether before or after the Bank shall have permitted any withdrawal requested in the application.

SECTION 5.06. *Sufficiency of Applications and Documents.* Each application and the accompanying documents and other evidence must be sufficient in form and substance to satisfy the Bank that the Borrower is entitled to withdraw from the Loan Account the amount applied for and that the amount to be withdrawn from the Loan Account is to be used only for the purposes specified in the Loan Agreement.

SECTION 5.07. *Payment by the Bank.* The Bank shall pay the amounts withdrawn by the Borrower from the Loan Account only to or on the order of the Borrower.

#### Article VI. CANCELLATION AND SUSPENSION

SECTION 6.01. *Cancellation by the Borrower.* The Borrower may by notice to the Bank cancel any amount of the Loan which the Borrower shall not have withdrawn prior to the giving of such notice, except that the Borrower may not so cancel any amount of the Loan in respect of which the Bank shall have entered into a special commitment pursuant to Section 5.02.

SECTION 6.02. *Suspension by the Bank.* If any of the following events of suspension shall have occurred and be continuing, the Bank may by notice to the Borrower and the Guarantor suspend in whole or in part the right of the Borrower to make withdrawals from the Loan Account:

- (a) The Borrower shall have failed to make payment (notwithstanding the fact that such payment may have been made by the Guarantor or a third party) of principal or interest or any other payment required under: (i) the Loan Agreement, or (ii) any other loan or guarantee agreement with the Bank or any bond or similar instrument delivered pursuant to any such agreement, or (iii) any development credit agreement with the Association.
- (b) The Guarantor shall have failed to make payment of principal or interest or any other payment required under: (i) the Guarantee Agreement, or (ii) any other loan or guarantee agreement with the Bank or any bond or similar instruments delivered pursuant to any such agreement, or (iii) any development credit agreement with the Association.
- (c) The Borrower or the Guarantor shall have failed to perform any other obligation under the Loan Agreement or the Guarantee Agreement.
- (d) The Bank or the Association shall have suspended in whole or in part the right of the Borrower or the Guarantor to make withdrawals under any loan agreement with



the Bank or any development credit agreement with the Association because of a failure by the Borrower or the Guarantor to perform any of its obligations under such agreement or any guarantee agreement with the Bank.

- (e) As a result of events which have occurred after the date of the Loan Agreement, an extraordinary situation shall have arisen which shall make it improbable that the Project can be carried out or that the Borrower or the Guarantor will be able to perform its obligations under the Loan Agreement or the Guarantee Agreement.
- (f) The member of the Bank which is the Borrower or the Guarantor: (i) shall have been suspended from membership in or ceased to be a member of the Bank, or (ii) shall have ceased to be a member of the International Monetary Fund.
- (g) After the date of the Loan Agreement and prior to the Effective Date any event shall have occurred which would have entitled the Bank to suspend the Borrower's right to make withdrawals from the Loan Account if the Loan Agreement had been effective on the date such event occurred.
- (h) Any material adverse change in the condition of the Borrower (other than a member of the Bank), as represented by the Borrower, shall have occurred prior to the Effective Date.
- (i) A representation made by the Borrower or the Guarantor in or pursuant to the Loan Agreement or the Guarantee Agreement, or any statement furnished in connection therewith, and intended to be relied upon by the Bank in making the Loan, shall have been incorrect in any material respect.
- (j) Any event specified in paragraph (f) or (g) of Section 7.01 shall have occurred.
- (k) Any other event specified in the Loan Agreement for the purposes of this Section shall have occurred.

The right of the Borrower to make withdrawals from the Loan Account shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to suspension shall have ceased to exist, unless the Bank shall have notified the Borrower that the right to make withdrawals has been restored; provided, however, that such notice of restoration may limit the right to make withdrawals.

SECTION 6.03. *Cancellation by the Bank.* If (a) the right of the Borrower to make withdrawals from the Loan Account shall have been suspended with respect to any amount of the Loan for a continuous period of thirty days, or (b) at any time the Bank determines, after consultation with the Borrower, that an amount of the Loan will not be required to finance the Project's costs to be financed out of the proceeds of the Loan, or (c) after the Closing Date an amount of the Loan shall remain unwithdrawn from the Loan Account, or (d) the Bank shall have received notice from the Guarantor pursuant to Section 6.07 with respect to an amount of the Loan, the Bank may by notice to the Borrower and the Guarantor terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice such amount of the Loan shall be cancelled.

SECTION 6.04. *Amounts Subject to Special Commitment Not Affected by Cancellation or Suspension by the Bank.* No cancellation or suspension by the Bank shall apply to amounts subject to any special commitment entered into by the Bank pursuant to Section 5.02 except as expressly provided in such commitment.

SECTION 6.05. *Application of Cancellation to Maturities of the Loan.* Except as otherwise agreed between the Bank and the Borrower, any cancellation shall be applied *pro rata* to the several maturities of the principal amount of the Loan which shall mature after the date of such cancellation and shall not have been theretofore sold or agreed to be sold by the Bank.

SECTION 6.06. *Effectiveness of Provisions after Suspension or Cancellation.* Notwithstanding any cancellation or suspension, all the provisions of the Loan Agree-

ment and the Guarantee Agreement shall continue in full force and effect except as in this Article specifically provided.

**SECTION 6.07. *Cancellation of Guarantee.*** If the Borrower shall have failed to make payment of principal or interest or any other payment required under the Loan Agreement (otherwise than as a result of any act or omission to act of the Guarantor) and such payment shall have been made by the Guarantor, the Guarantor may, after consultation with the Bank, by notice to the Bank and the Borrower terminate its obligations under the Guarantee Agreement with respect to any amount of the Loan unwithdrawn from the Loan Account on the date of receipt of such notice by the Bank and not subject to any special commitment entered into by the Bank pursuant to Section 5.02. Upon receipt of such notice by the Bank, such obligations in respect of such amount shall terminate.

#### *Article VII. ACCELERATION OF MATURITY*

**SECTION 7.01. *Events of Acceleration.*** If any of the following events shall occur and shall continue for the period specified below, if any, then at any subsequent time during the continuance thereof, the Bank, at its option, may by notice to the Borrower and the Guarantor declare the principal of the Loan then outstanding to be due and payable immediately together with the interest and other charges thereon and upon any such declaration such principal, together with the interest and other charges thereon, shall become due and payable immediately:

- (a) A default shall occur in the payment of principal or interest or any other payment required under the Loan Agreement and such default shall continue for a period of thirty days.
- (b) A default shall occur in the payment of principal or interest or any other payment required under the Guarantee Agreement and such default shall continue for a period of thirty days.
- (c) A default shall occur in the payment of principal or interest or any other payment required under any other loan or guarantee agreement between the Bank and the Borrower or under any bond or similar instrument delivered pursuant to any such agreement or under any development credit agreement between the Association and the Borrower and such default shall continue for a period of thirty days.
- (d) A default shall occur in the payment of principal or interest or any other payment required under any loan or guarantee agreement between the Guarantor and the Bank or under any bond or similar instrument delivered pursuant to any such agreement or under any development credit agreement between the Association and the Guarantor under circumstances which would make it unlikely that the Guarantor would meet its obligations under the Guarantee Agreement and such default shall continue for a period of thirty days.
- (e) A default shall occur in the performance of any other obligation on the part of the Borrower or the Guarantor under the Loan Agreement or the Guarantee Agreement, and such default shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower and the Guarantor.
- (f) The Borrower (other than a member of the Bank) shall have become unable to pay its debts as they mature or any action or proceeding shall have been taken by the Borrower or by others whereby any of the assets of the Borrower shall or may be distributed among its creditors.
- (g) The Guarantor or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of the Borrower (other than a member of the Bank) or for the suspension of its operations.

- (h) Any other event specified in the Loan Agreement for the purposes of this Section shall have occurred and shall continue for the period, if any, specified in the Loan Agreement.

*Article VIII. TAXES*

SECTION 8.01. *Taxes.* (a) The principal of, and interest and other charges on, the Loan shall be paid without deduction for, and free from, any taxes levied by, or in the territory of, the member of the Bank which is the Borrower or the Guarantor.

(b) The Loan Agreement and the Guarantee Agreement, and any other agreement to which these General Conditions shall be made applicable, shall be free from any taxes levied by, or in the territory of, the member of the Bank which is the Borrower or the Guarantor on or in connection with the execution, delivery or registration thereof.

*Article IX. COOPERATION AND INFORMATION;  
FINANCIAL AND ECONOMIC DATA*

SECTION 9.01. *Cooperation and Information.* (a) The Bank, the Borrower and the Guarantor shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, the Bank, the Borrower and the Guarantor shall from time to time, at the request of any one of them:

- (i) exchange views through their representatives with regard to the progress of the Project, the benefits derived therefrom and the performance of their respective obligations under the Loan Agreement and the Guarantee Agreement and other matters relating to the purposes of the Loan; and
- (ii) furnish to the other party all such information as it shall reasonably request with regard to the progress of the Project, the benefits derived therefrom and the general status of the Loan.

(b) The Bank, the Borrower and the Guarantor shall promptly inform each other of any condition which interferes with, or threatens to interfere with, the progress of the Project, the accomplishment of the purposes of the Loan, the maintenance of the service thereof or the performance by any one of them of its obligations under the Loan Agreement and the Guarantee Agreement.

(c) The member of the Bank which is the Borrower or the Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of its territory for purposes related to the Loan.

SECTION 9.02. *Financial and Economic Data.* The member of the Bank which is the Borrower or the Guarantor shall furnish to the Bank all such information as the Bank shall reasonably request with respect to financial and economic conditions in its territory, including its balance of payments and its external debt as well as that of its political or administrative subdivisions and of any entity owned or controlled by, or operating for the account or benefit of, such member or any such subdivision, and of any institution performing the functions of a central bank or exchange stabilization fund, or similar functions, for such member.

*Article X. ENFORCEABILITY OF LOAN AGREEMENT AND GUARANTEE AGREEMENT;  
FAILURE TO EXERCISE RIGHTS; ARBITRATION*

SECTION 10.01. *Enforceability.* The rights and obligations of the Bank, the Borrower and the Guarantor under the Loan Agreement and the Guarantee Agreement shall be valid and enforceable in accordance with their terms notwithstanding the law of any State or political subdivision thereof, to the contrary. Neither the Bank nor the Borrower nor the Guarantor shall be entitled in any proceeding under this Article to assert any claim that any provision of these General Conditions or of the Loan Agreement or

the Guarantee Agreement is invalid or unenforceable because of any provision of the Articles of Agreement of the Bank.

SECTION 10.02. *Obligations of the Guarantor.* The obligations of the Guarantor under the Guarantee Agreement shall not be discharged except by performance and then only to the extent of such performance. Such obligations shall not be subject to any prior notice to, demand upon or action against the Borrower or to any prior notice to or demand upon the Guarantor with regard to any default by the Borrower, and shall not be impaired by any of the following: any extension of time, forbearance or concession given to the Borrower; any assertion of, or failure to assert, or delay in asserting, any right, power or remedy against the Borrower or in respect of any security for the Loan; any modification or amplification of the provisions of the Loan Agreement contemplated by the terms thereof; any failure of the Borrower to comply with any requirement of any law of the Guarantor.

SECTION 10.03. *Failure to Exercise Rights.* No delay in exercising, or omission to exercise, any right, power or remedy accruing to any party under the Loan Agreement or Guarantee Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall any action of such party in respect of any default, or any acquiescence by it in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

SECTION 10.04. *Arbitration.* (a) Any controversy between the parties to the Loan Agreement or the parties to the Guarantee Agreement, and any claim by any such party against any other such party arising under the Loan Agreement or the Guarantee Agreement which shall not be settled by agreement of the parties shall be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

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

(c) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one arbitrator shall be appointed by the Bank; a second arbitrator shall be appointed by the Borrower and the Guarantor or, if they shall not agree, by the Guarantor; and the third arbitrator (hereinafter sometimes called the Umpire) shall be appointed by agreement of the parties or, if they shall not agree, by the President of the International Court of Justice or, failing appointment by him, by the Secretary-General of the United Nations. If either side shall fail to appoint an arbitrator, such arbitrator shall be appointed by the Umpire. In case any arbitrator appointed in accordance with this Section shall resign, die or become unable to act, a successor arbitrator shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator and such successor shall have all the powers and duties of such original arbitrator.

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

(e) If within sixty days after the notice instituting the arbitration proceeding the parties shall not have agreed upon an Umpire, any party may request the appointment of an Umpire as provided in paragraph (c) of this Section.

(f) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the Umpire. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.

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

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

(i) The parties shall fix the amount of the remuneration of the arbitrators and such other persons as shall be required for the conduct of the arbitration proceedings. If the parties shall not agree on such amount before the Arbitral Tribunal shall convene, the Arbitral Tribunal shall fix such amount as shall be reasonable under the circumstances. The Bank, the Borrower and the Guarantor shall each defray its own expenses in the arbitration proceedings. The costs of the Arbitral Tribunal shall be divided between and borne equally by the Bank on the one side and the Borrower and the Guarantor on the other. Any question concerning the division of the costs of the Arbitral Tribunal or the procedure for payment of such costs shall be determined by the Arbitral Tribunal.

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

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

(l) Service of any notice or process in connection with any proceeding under this Section or in connection with any proceeding to enforce any award rendered pursuant to this Section may be made in the manner provided in Section 11.01. The parties to the Loan Agreement and the Guarantee Agreement waive any and all other requirements for the service of any such notice or process.

#### Article XI. MISCELLANEOUS PROVISIONS

SECTION 11.01. *Notices and Requests.* Any notice or request required or permitted to be given or made under the Loan Agreement or Guarantee Agreement and any other agreement between any of the parties contemplated by the Loan Agreement or the Guarantee Agreement shall be in writing. Except as otherwise provided in Section 12.03, such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex or radiogram to the party to which it is required or permitted to be given or made at such party's address specified in the Loan Agreement or Guarantee Agreement or at such other address as such party shall have designated by notice to the party giving such notice or making such request.

SECTION 11.02. *Evidence of Authority.* The Borrower and the Guarantor shall furnish to the Bank sufficient evidence of the authority of the person or persons who

will, on behalf of the Borrower or the Guarantor, take any action or execute any documents required or permitted to be taken or executed by the Borrower under the Loan Agreement or by the Guarantor under the Guarantee Agreement, and the authenticated specimen signature of each such person.

SECTION 11.03. *Action on Behalf of the Borrower or Guarantor.* Any action required or permitted to be taken, and any documents required or permitted to be executed, pursuant to the Loan Agreement or the Guarantee Agreement, on behalf of the Borrower or the Guarantor, may be taken or executed by the representative of the Borrower or the Guarantor designated in the Loan Agreement or the Guarantee Agreement for the purposes of this Section or any person thereunto authorized in writing by him. Any modification or amplification of the provisions of the Loan Agreement or the Guarantee Agreement may be agreed to on behalf of the Borrower or the Guarantor by written instrument executed on behalf of the Borrower or the Guarantor by the representative so designated or any person thereunto authorized in writing by him; provided that, in the opinion of such representative, such modification or amplification is reasonable in the circumstances and will not substantially increase the obligations of the Borrower under the Loan Agreement or of the Guarantor under the Guarantee Agreement. The Bank may accept the execution by such representative or other person of any such instrument as conclusive evidence that in the opinion of such representative any modification or amplification of the provisions of the Loan Agreement or the Guarantee Agreement effected by such instrument is reasonable in the circumstances and will not substantially increase the obligations of the Borrower or of the Guarantor thereunder.

SECTION 11.04. *Execution in Counterparts.* The Loan Agreement and the Guarantee Agreement may each be executed in several counterparts, each of which shall be an original.

#### Article XII. EFFECTIVE DATE; TERMINATION

SECTION 12.01. *Conditions Precedent to Effectiveness of Loan Agreement and Guarantee Agreement.* The Loan Agreement and the Guarantee Agreement shall not become effective until evidence satisfactory to the Bank shall have been furnished to the Bank:

- (a) that the execution and delivery of the Loan Agreement and the Guarantee Agreement on behalf of the Borrower and the Guarantor have been duly authorized or ratified by all necessary governmental and corporate action;
- (b) if the Bank shall so request, that the condition of the Borrower (other than a member of the Bank), as represented or warranted to the Bank at the date of the Loan Agreement, has undergone no material adverse change after such date; and
- (c) that all other events specified in the Loan Agreement as conditions to effectiveness have occurred.

SECTION 12.02. *Legal Opinions or Certificates.* As part of the evidence to be furnished pursuant to Section 12.01, there shall be furnished to the Bank an opinion or opinions satisfactory to the Bank of counsel acceptable to the Bank or, if the Bank shall so request, a certificate satisfactory to the Bank of a competent official of the member of the Bank which is the Borrower or the Guarantor, showing:

- (a) on behalf of the Borrower, that the Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and is legally binding upon the Borrower in accordance with its terms;
- (b) on behalf of the Guarantor, that the Guarantee Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Guarantor and is legally binding upon the Guarantor in accordance with its terms; and

(c) such other matters as shall be specified in the Loan Agreement or as shall be reasonably requested by the Bank in connection therewith.

SECTION 12.03. *Effective Date.* (a) Except as shall be otherwise agreed by the Bank and the Borrower, the Loan Agreement and the Guarantee Agreement shall come into force and effect on the date upon which the Bank dispatches to the Borrower and to the Guarantor notice of its acceptance of the evidence required by Section 12.01.

(b) If, before the Effective Date, any event shall have occurred which would have entitled the Bank to suspend the right of the Borrower to make withdrawals from the Loan Account if the Loan Agreement had been effective, the Bank may postpone the dispatch of the notice referred to in paragraph (a) of this Section until such event or events shall have ceased to exist.

SECTION 12.04. *Termination of Loan Agreement and Guarantee Agreement for Failure to Become Effective.* If the Loan Agreement shall not have come into force and effect by the date specified in the Loan Agreement for the purposes of this Section, the Loan Agreement and the Guarantee Agreement and all obligations of the parties thereunder shall terminate, unless the Bank, after consideration of the reasons for the delay, shall establish a later date for the purposes of this Section. The Bank shall promptly notify the Borrower and the Guarantor of such later date.

SECTION 12.05. *Termination of Loan Agreement and Guarantee Agreement on Full Payment.* If and when the entire principal amount of the Loan withdrawn from the Loan Account and the premium, if any, on the prepayment of the Loan and all interest and other charges which shall have accrued on the Loan shall have been paid, the Loan Agreement and the Guarantee Agreement and all obligations of the parties thereunder shall forthwith terminate.