

No. 18315

**INTERNATIONAL FUND
FOR AGRICULTURAL DEVELOPMENT
and
HAITI**

Guarantee Agreement—Irrigation and Agricultural Development Project in the Rivière Blanche Zone of the Cul-de-Sac Plain (with General Conditions applicable to Loan and Guarantee Agreements of the Fund dated 11 April 1978). Signed at Rome on 27 November 1978

Authentic text of the Agreement: French.

Authentic texts of the General Conditions of 11 April 1978: Arabic, English, French and Spanish.

Registered by the International Fund for Agricultural Development on 26 February 1980.

**FONDS INTERNATIONAL
DE DÉVELOPPEMENT AGRICOLE
et
HAÏTI**

Accord de garantie — Projet d'irrigation et de développement agricole dans la zone de la rivière Blanche de la plaine du Cul-de-Sac (avec Conditions générales applicables aux accords de prêt et de garantie du Fonds en date du 11 avril 1978). Signé à Rome le 27 novembre 1978

Texte authentique de l'Accord : français.

Textes authentiques des Conditions générales du 11 avril 1978 : arabe, anglais, français et espagnol.

Enregistré par le Fonds international de développement agricole le 26 février 1980.

[TRANSLATION — TRADUCTION]

GUARANTEE AGREEMENT¹ (IRRIGATION AND AGRICULTURAL DEVELOPMENT PROJECT IN THE RIVIÈRE BLANCHE ZONE OF THE CUL-DE-SAC PLAIN) BETWEEN THE REPUBLIC OF HAITI AND THE INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

Dated 27 November 1978

Loan No. 4-HAI

AGREEMENT signed on 27 November 1978 between the REPUBLIC OF HAITI (hereinafter called the "Guarantor") and the INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (hereinafter called the "Fund").

BACKGROUND

Pursuant to Loan Agreement No. 4-HAI (hereinafter called the "Loan Agreement") signed this same day, at Rome, between the Fund and the National Bank of the Republic of Haiti (hereinafter called the "Borrower"), the Fund has agreed to grant the Borrower a loan in a maximum amount of three million five hundred thousand United States dollars (\$3,500,000) or the equivalent in other currencies belonging to the Fund, on condition that the Guarantor shall guarantee the Borrower's obligations as established in that contract.

The Borrower and the Fund have designated the Inter-American Development Bank (hereinafter called the "Bank") as the co-operating institution appointed to administer the loan.

Now therefore, the Contracting Parties agree as follows:

1. The Guarantor shall declare himself jointly liable for any obligations entered into by the Borrower under the above-mentioned Loan Agreement, all the Parties to which shall be acknowledged by the Guarantor.

2. The Guarantor shall undertake to provide or to arrange for the provision of any additional resources required for the execution of the Project referred to in the Loan Agreement should the resources scheduled for that purpose prove to be insufficient or not available when required.

3. The Guarantor shall undertake, within 36 months from the entry into force of the Loan Agreement, to take appropriate measures acceptable to the Bank, in collaboration with the Borrower and through the Department of Agriculture, Natural Resources and Rural Development (DARNDR), to ensure that the charges levied on the specific irrigation system covered by the Project produce sufficient income to cover all the costs of operating the system, including administration, functioning and maintenance costs.

¹ Came into force on 24 April 1979 by notification from the Fund to the Government of Haiti, in accordance with sections 10.01 and 10.02 of the General Conditions applicable to Loan and Guarantee Agreements of the Fund dated 11 April 1978.

4. The Guarantor shall ensure that the activities of its departments and agencies in the execution of the Project and the operation of the Project installations are administered and co-ordinated in accordance with sound management practices.

5. The Guarantor and the Fund shall agree on appropriate provisions for the overall monitoring of the Project, which shall be executed by the Borrower in accordance with the principles and criteria of the Fund.

For that purpose, the Guarantor shall, within six months of the signing of this Loan Agreement, designate a body acceptable to the Fund and shall submit detailed proposals concerning the monitoring of the Project.

6. In addition, the Guarantor shall undertake to:

- (a) Co-operate fully to ensure the implementation of the objectives of the loan;
- (b) Inform the Fund and the Bank as soon as possible of anything that is preventing or might prevent the accomplishment of the purposes for which the loan was granted or the execution of the Borrower's obligations;
- (c) Furnish to the Fund and to the Bank such information as they may reasonably request regarding the Borrower's situation;
- (d) Assist the representatives of the Fund and the Bank in the exercise of their duties with respect to the Loan Agreement and the execution of the Project;
- (e) Inform the Fund and the Bank as soon as possible when it makes loan service payments in the execution of its obligations as jointly liable guarantor.

7. The Guarantor shall ensure that the principal, service charges and other loan payments are made without any deductions or restrictions, free of any tax, levy, duty or surcharge that is or might be required by the laws of Haiti. The Guarantor shall also ensure that this Agreement and the Loan Agreement shall be exempt from any tax, levy or duty payable upon the signing, registration or execution of agreements.

8. The responsibility of the Guarantor shall end only when the obligations entered into by the Borrower have been met. The Guarantor shall not abrogate his responsibility on the grounds that the Fund and the Bank have granted an extension or a concession to the Borrower or that they have omitted to take action or delayed in taking action against the Borrower.

9. Delay on the part of the Fund and the Bank in exercising the rights granted by this Agreement or failure to exercise them shall not be interpreted either as a renunciation of those rights or as an acceptance of the circumstances which entitled them to exercise those rights.

10. Any dispute which may arise between the Parties with regard to the interpretation or implementation of this Agreement and which is not settled by agreement between them shall be submitted to the adjudication of the arbitration tribunal in the manner stipulated in Article XI, Section 11.04, of the General Conditions applicable to the Loan Agreement. For the purposes of arbitration, any reference to the Borrower in that article shall be applicable to the Guarantor. If the dispute involves both the Borrower and the Guarantor, they shall jointly designate an arbitrator.

11. All opinions, requests or communications between the Parties concerning this Agreement shall, without exception, be made in writing and shall be

considered as having been conveyed, made or sent by one of the Parties to the other when submitted through a normal channel of communication to the appropriate address below:

To the Guarantor:

Postal address:

Secretariat of State for Finance and Economic Affairs
Palais des Finances
Port-au-Prince, Haiti

Telegraphic address:

Secretariat of State for Finance and Economic Affairs
Port-au-Prince, Haiti

To the Fund:

Postal address:

International Fund for Agricultural Development
Via del Serafico 107
00142 Rome, Italy

Telegraphic address:

IFAD
Rome

Telex numbers:

614160
614162

To the Bank:

Postal address:

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

Telegraphic address:

INTAMBANC
Washington, D.C.

IN WITNESS WHEREOF, the Guarantor and the Fund, acting through their duly authorized representatives, have caused this Guarantee Agreement to be signed in their respective names and delivered at the principal office of the Fund on the date first above written.

Republic of Haiti:

EDOUARD D. BERROUET
Authorized Representative

International Fund for Agricultural Development:

A. SUDEARY
President

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

GENERAL CONDITIONS APPLICABLE TO LOAN
AND GUARANTEE AGREEMENTS

Dated 11 April 1978

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GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS

Article I. PURPOSE: APPLICATION TO LOAN AGREEMENTS AND GUARANTEE AGREEMENTS

Section 1.01. PURPOSE. These General Conditions set forth certain terms and conditions generally applicable to loans made by the Fund.

Section 1.02. APPLICATION OF GENERAL CONDITIONS. Any loan agreement with the Fund and any guarantee agreement with the Fund relating to a loan made by the Fund may provide that the parties thereto accept these General Conditions. To the extent and subject to such modifications as shall be provided in any such agreement, these General Conditions shall apply thereto and shall govern the rights and obligations thereunder of the parties thereto with the same force and effect as if they were fully set forth therein. No revocation or amendment of these General Conditions shall be effective in respect of any such agreement unless the parties thereto shall so agree.

Section 1.03. INCONSISTENCY WITH LOAN AGREEMENTS 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 that agreement shall govern.

Article II. DEFINITIONS

Section 2.01. DEFINITIONS. Except where the context otherwise requires, the following terms have the following meanings wherever used in these General Conditions or in a loan agreement or guarantee agreement to which these General Conditions have been made applicable:

1. The term "Fund" means International Fund for Agricultural Development.
2. The term "Member" means a Member of the Fund.
3. The term "Loan Agreement" means the particular loan agreement (including all schedules thereto) whereby the parties thereto accept the application of these General Conditions with the same force and effect as if they were fully set forth therein, as such agreement may be amended from time to time; and such term includes these General Conditions as thus incorporated and all agreements supplemental to the Loan Agreement.
4. The term "Loan" means the loan provided for in the Loan Agreement.
5. The term "Loan Account" means the account opened or to be opened by the Fund on its books in the name of the Borrower to which the amount of the Loan has been or will be credited.
6. The term "Borrower" means the party to the Loan Agreement which is the recipient of the Fund's Loan.
7. The term "Guarantee Agreement" means the particular guarantee agreement (including all schedules thereto) which provides for the guarantee of the Loan and whereby parties thereto accept the application of these General Conditions with the same force and effect as if they were fully set forth therein, as such agreement may be amended from time

to time; and such term includes these General Conditions as thus incorporated and all agreements supplemental to the Guarantee Agreement.

8. The term "Guarantor" means the party to the Guarantee Agreement which guarantees the Loan.

9. The term "Project" means the project or programme for which the Loan is made, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between the Fund and the Borrower.

10. The term "Project Executing Agency" means the national entity or entities of a Member responsible for the execution of the Project.

11. The term "Project Agreement" means the project agreement (including all schedules thereto), if any, between the Fund and the Project Executing Agency, as such agreement may be amended from time to time; and such term includes all agreements supplemental to the Project Agreement.

12. The term "Cooperating Institution" means the institution responsible for the administration of the Loan on behalf of the Fund for the purposes of disbursing the proceeds of the Loan and supervising the implementation of the Project.

13. The term "Loan Administration Agreement", if any, means the particular agreement or any other arrangement whereby the Cooperating Institution is vested with the authority to administer the Loan on behalf of the Fund, as such agreement may be amended from time to time.

14. The term "currency" of a state or a territory means such currency as at the time referred to is legal tender for the payment of public and private debts in that state or territory.

15. The term "local currency" means the currency of the Member in whose territory the Project is to be carried out.

16. The term "foreign currency" means any currency other than local currency.

17. The term "freely convertible currency" means any currency so designated by the Fund at any given time.

18. The term "dollars" or the sign "\$" means dollars in the currency of the United States of America.

19. The term "local expenditure" means expenditure made, or to be made, in the currency of the Member in whose territory the Project is to be carried out for goods produced in, and services supplied from the territories of such Member.

20. The term "foreign expenditure" means any expenditure other than local expenditure.

21. The term "external debt" means any debt payable in any medium other than local currency, whether such debt is or may become payable absolutely or at the option of the creditor in such other medium.

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

23. The term "Effective Date" means the date on which the Loan Agreement and the Guarantee Agreement, if any, shall come into force and effect as provided in Section 10.03.

24. 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.

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

26. Wherever reference is made to the incurring of debt, such reference includes the assumption and guarantee of debt.

*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 in accordance with the provisions of the Loan Agreement and these General Conditions.

Section 3.02. INTEREST AND OTHER CHARGES. Interest and other charges, if any, at the rate specified in the Loan Agreement shall be payable on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time. Interest and other charges shall accrue from the respective dates on which amounts shall be withdrawn from the Loan Account.

Section 3.03. COMPUTATION OF INTEREST AND OTHER CHARGES. Interest and other charges shall be computed on the basis of a 360-day year of twelve 30-day months.

Section 3.04. REPAYMENTS. (a) The principal amount of the Loan withdrawn from the Loan Account shall be repayable in accordance with the amortization schedule to the Loan Agreement.

(b) The Borrower shall have the right, upon payment of all accrued interest and other charges, and upon giving 45 days' notice to the Fund (which period of notice may be waived or reduced by the Fund), to repay in advance of maturity (i) all of the principal amount of the Loan at the time outstanding or (ii) all 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.

Section 3.05. PLACE OF PAYMENT. The principal and interest and other charges on the Loan shall be paid at such places as the Fund shall reasonably request.

Article IV. CURRENCY PROVISIONS

Section 4.01. DENOMINATION OF THE LOAN. As determined by the Fund, the amount of the Loan shall be expressed in either of the following manners:

- (a) In the Special Drawing Rights (SDRs) of the International Monetary Fund.
- (b) In a specified currency (e.g., the "United States dollar"), or
- (c) In various currencies equivalent to an amount in SDRs.

Section 4.02. CURRENCIES FOR WITHDRAWALS. Unless the Fund and the Borrower shall otherwise agree, withdrawals from the Loan Account in respect of foreign expenditures shall be made either in the respective currencies in which the cost of goods and services has been paid or is payable, or in such freely convertible currency or currencies as the Fund may from time to time select; provided, however, that for procurement of goods and services from the territories of category III Members, withdrawals shall be in such currencies as the Fund may from time to time prescribe in consultation with the Member concerned.

Section 4.03. CURRENCIES FOR REPAYMENT OF PRINCIPAL. (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. If withdrawal shall be made in any currency which the Fund shall have purchased with another currency for the purpose of such withdrawal, 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 Fund on such purchase. Notwithstanding the foregoing provisions of this Section, the Borrower and the Fund may agree to substitute any freely convertible currency as the currency of repayment.

(b) Except as the Fund and the Borrower shall otherwise agree, the portion of the Loan to be repaid in any particular currency shall be repayable in such instalments as the Fund 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, including in terms of SDR if any.

Section 4.04. CURRENCY FOR PAYMENT OF INTEREST. 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 4.05. CURRENCY FOR PAYMENT OF OTHER CHARGES. Other charges, if any, on the Loan shall be payable in the currency in which the Loan is denominated or as specified in the Loan Agreement.

Section 4.06. PURCHASE OF CURRENCIES. The Fund shall, at the request of the Borrower and on such terms and conditions as the Fund 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 Fund from time to time. In purchasing the currencies required, the Fund 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 Fund has received such payment in the currency or currencies required.

Section 4.07. VALUATION OF CURRENCIES. Whenever it shall be necessary for the purposes of the Loan Agreement or the Guarantee Agreement, if any, to determine the value of one currency in terms of another or the SDR, the value of one currency in terms of another shall be as reasonably determined by the Fund and the value of a currency in the SDR shall be calculated in accordance with Article 5.2(b) of the Agreement Establishing the Fund.

Section 4.08. MANNER OF PAYMENT. (a) Any payment required under the Loan Agreement or the Guarantee Agreement, if any, to be made to the Fund in the currency of any State shall be made in such manner, and in the currency acquired in such manner, as shall be permitted under the laws of such State for the purpose of making such payment and effecting the deposit of such currency to the account of the Fund with a depository of the Fund in such State.

(b) Where either the Borrower or the Guarantor, if any, is a Member, such Member shall ensure that the principal of, and interest and other charges on, the Loan are paid without restrictions of any kind imposed by, or in the territory of, such Member. Where either the Borrower or the Guarantor, if any, is not a Member, the Borrower shall obtain and, prior to the effective date of the Loan Agreement, furnish to the Fund evidence of an assurance from the Member concerned that the principal of, and interest and other charges on, the Loan will be paid without restrictions of any kind imposed by, or in the territory of, such Member.

Article V. COOPERATING INSTITUTION

Section 5.01. RESPONSIBILITIES OF COOPERATING INSTITUTION. (a) To administer the Loan, the Fund shall appoint a suitable and competent institution acceptable to the Borrower and the Guarantor, if any.

(b) The Cooperating Institution shall be responsible for:

- (i) Such reviews and approvals as the Cooperating Institution shall consider necessary for procurement of goods and services under the Loan;
- (ii) Such periodic inspection of the Project as shall be considered necessary by the Cooperating Institution;

- (iii) Issuing such instructions to the Borrower and the Project Executing Agency as the Cooperating Institution shall consider necessary for efficient and proper implementation and initial operation of the Project;
- (iv) Disbursing the proceeds of the Loan;
- (v) Bringing to the attention of the Fund any substantial violation or non-compliance by the Borrower and the Guarantor, if any, or the Project Executing Agency of any covenant of the Loan Agreement and the Guarantee Agreement, if any, and recommending to the Fund the remedy for any such default; and
- (vi) Carrying out such other functions as may be necessary for proper supervision of the implementation of the Project or disbursement of proceeds of the Loan as agreed between the Fund and the Cooperating Institution.

Section 5.02. EXTENT OF COOPERATING INSTITUTION'S RESPONSIBILITY. Except as otherwise agreed between the Fund and the Cooperating Institution, the Cooperating Institution shall have exclusive responsibility in respect of the matters referred to in Section 5.01 (b) above. Any action by the Cooperating Institution pursuant to its responsibilities thereto shall be regarded and treated by the Borrower, the Guarantor, if any, and the Project Executing Agency as action taken by the Fund.

Section 5.03. LOAN ADMINISTRATION AND THE FUND'S POLICIES. The Cooperating Institution shall administer the Loan in accordance with the regulations, criteria and policies of the Fund prescribed from time to time and communicated to the Institution.

Section 5.04. ACTION BY THE BORROWER, THE GUARANTOR, AND THE PROJECT EXECUTING AGENCY TO ENABLE THE COOPERATING INSTITUTION TO CARRY OUT ITS FUNCTIONS. The Borrower, the Guarantor, if any, and the Project Executing Agency shall take all such steps as shall be necessary to enable the Cooperating Institution to carry out its functions smoothly and effectively.

Article VI. WITHDRAWAL OF LOAN PROCEEDS

Section 6.01. WITHDRAWAL FROM THE LOAN ACCOUNT. (a) Subject to any conditions or restrictions specified in the Loan Agreement, the Borrower shall be entitled to withdraw from the Loan Account such amounts as shall have been paid or, if the Fund shall so agree, such amounts as shall be required to meet payments to be made, for the reasonable cost of goods and services and any other expenditures required for the Project and to be financed under the Loan Agreement.

(b) Except as the Fund and Borrower shall otherwise agree, no withdrawals shall be made on account of payments made or due prior to the effective date of the Loan Agreement.

Section 6.02. UNQUALIFIED SPECIAL COMMITMENTS BY THE FUND. Upon the Borrower's request and upon such terms and conditions as shall be agreed upon between the Fund and the Borrower, the Fund may enter into unqualified special commitments to pay amounts in respect of the cost of goods and services to be financed under the Loan Agreement notwithstanding any subsequent suspension or cancellation.

Section 6.03. APPLICATION FOR WITHDRAWAL. When the Borrower shall desire to withdraw any amount from the Loan Account or to request the Fund to enter into a special commitment pursuant to Section 6.02, the Borrower shall deliver to the Cooperating Institution an application in such form and containing such statements and agreements, as the Cooperating Institution 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 6.04. SUFFICIENCY OF APPLICATIONS AND DOCUMENTS. Each application for withdrawal and the accompanying documents and other evidence must be sufficient in form and substance to satisfy the Cooperating Institution that the Borrower is entitled to withdraw from the Loan Account the amount specified and that the amount to be with-

drawn from the Loan Account is to be used only for the purposes specified in the Loan Agreement.

Section 6.05. SUPPORTING EVIDENCE. The Borrower shall furnish to the Cooperating Institution such documents and other evidence in support of the application for withdrawal as the Cooperating Institution shall reasonably request, whether before or after the Cooperating Institution shall have permitted any withdrawal requested in the application.

Section 6.06. EVIDENCE OF AUTHORITY TO SIGN APPLICATIONS. The Borrower shall furnish to the Cooperating Institution evidence, satisfactory to the Cooperating Institution, of the authority of the person or persons authorized to sign applications for withdrawal and the authenticated specimen signature of each such person, all in accordance with the provisions of Sections 12.02 and 12.03.

Section 6.07. PAYMENT BY THE COOPERATING INSTITUTION. Payment by the Cooperating Institution of amounts which the Borrower is entitled to withdraw from the Loan Account shall be made to or on the order of the Borrower.

Article VII. COOPERATION; INFORMATION

Section 7.01. COOPERATION. The Fund, the Cooperating Institution, the Borrower and the Guarantor, if any, shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

Section 7.02. REPORTING. (a) The Borrower and the Guarantor, if any, shall furnish or cause to be furnished to the Cooperating Institutions such reports and information as the Cooperating Institution shall reasonably request on any matters relating to the Project, the Project Executing Agency and the Loan.

(b) The Borrower and the Guarantor, if any, shall promptly inform the Fund and the Cooperating Institution of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of their respective obligations under the Loan Agreement and the Guarantee Agreement, if any, the performance by the Project Executing Agency of its obligations under the Project Agreement, if any, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

Section 7.03. EXCHANGE OF VIEWS. The Fund, the Cooperating Institution, the Borrower and the Guarantor, if any, shall from time to time, at the request of any one of them, exchange views through their representatives with regard to the progress of the Project, the performance of their respective obligations under the Loan Agreement and the Guarantee Agreement, if any, the performance by the Project Executing Agency of its obligations under the Project Agreement, if any, and any other matter relating to the Project, the Project Executing Agency and the Loan.

Section 7.04. INFORMATION. Where either the Borrower or the Guarantor, if any, is a Member, such Member shall furnish to the Fund all such information as the Fund may reasonably request with respect to financial and economic conditions in its territory, including its balance of payments and its external debt, and the accomplishment of the purposes of the Loan.

Section 7.05. VISITS FOR LOAN PURPOSES. Where either the Borrower or the Guarantor, if any, is a Member, such Member shall afford all reasonable opportunity for representatives of the Fund and of the Cooperating Institution to visit any part of its territory for purposes related to the Loan.

Article VIII. EXEMPTION FROM TAXATION

Section 8.01. EXEMPTION FROM TAXATION. (a) Where either the Borrower or the Guarantor, if any, is a Member, such Member shall ensure that:

- (i) The principal of, and interest and other charges on, the Loan are exempt from, and shall be paid without deduction for and free from any taxes and all restrictions imposed by, or in the territory of, such Member; and

- (ii) The Loan Agreement, the Guarantee Agreement, if any, and the Project Agreement, if any, are exempt from any taxes levied by, or in the territory of, such Member on or in connection with the execution, delivery or registration thereof.

(b) Where the Borrower is not a Member, the Borrower shall obtain and, prior to the Effective Date of the Loan Agreement, furnish to the Fund evidence of an assurance from the Member concerned that:

- (i) The principal of, and interest and other charges on, the Loan shall be exempt from and be paid without deduction for and free from any taxes, imposed by, or in the territory of, such Member; and
- (ii) The Loan Agreement, the Guarantee Agreement, if any, and the Project Agreement, if any, shall be exempt from any taxes levied by, or in the territory of, such Member on or in connection with the execution, delivery or registration thereof.

Article IX. SUSPENSION; CANCELLATION; ACCELERATION OF MATURITY; LIEN

Section 9.01. CANCELLATION BY THE BORROWER. After consultation with the Fund and with the concurrence of the Guarantor, if any, the Borrower may by notice to the Fund and the Cooperating Institution cancel any amount of the Loan which the Borrower shall not have withdrawn prior to the giving of such notice, except as provided in Section 9.04.

Section 9.02. SUSPENSION BY THE FUND. If any of the following events shall have occurred and be continuing, the Fund may by notice to the Borrower and the Guarantor, if any, 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, if any, or a third party) of principal, interest or any other charge required under (i) the Loan Agreement or (ii) any other loan agreement or guarantee agreement with the Fund.
- (b) The Guarantor, if any, shall have failed to make payment of principal, interest or any other charge required under (i) the Guarantee Agreement or (ii) any other loan agreement or guarantee agreement with the Fund.
- (c) The Borrower or the Guarantor, if any, shall have failed to perform any other obligation under the Loan Agreement, the Guarantee Agreement, if any, or the Loan Administration Agreement, if any.
- (d) The Project Executing Agency shall have failed to perform any of its obligations under the Project Agreement, if any.
- (e) The Fund shall have suspended in whole or in part the right of the Borrower or the Guarantor, if any, to make withdrawals under any other loan agreement with the Fund because of a failure by the Borrower or the Guarantor to perform any of its obligations under such loan agreement or any related guarantee agreement with the Fund.
- (f) A situation shall have arisen or developed which in the reasonable opinion of the Fund will or may make it improbable that the Project can be successfully carried out or that the Borrower, the Guarantor, if any, or the Project Executing Agency, if any, will be able to perform any of its obligations under the Loan Agreement, the Guarantee Agreement, the Project Agreement or the Loan Administration Agreement, if any.
- (g) The Member in whose territory the Project is to be carried out shall have been suspended from membership in, or ceased to be a Member of, the Fund, or shall have delivered a notice to withdraw from the Fund.
- (h) A representation made by the Borrower or the Guarantor, if any, 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 Fund in making the Loan, shall have been incorrect in any material respect, or where the Borrower is not a Member, any

material adverse change in the condition of the Borrower as so represented by the Borrower shall have occurred in the reasonable opinion of the Fund.

- (i) Where the Borrower is not a Member, the Borrower shall have been 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.
- (j) Where the Borrower is not a Member, the Member in whose territory the Project is to be carried out or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of the Borrower or for the suspension of its operations.
- (k) Any authority having jurisdiction shall have taken action for the dissolution or disestablishment of the Project Executing Agency or for suspension of its operations.
- (l) 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 such suspension have, in the reasonable opinion of the Fund, ceased to exist or until the Fund shall have notified the Borrower that the right to make withdrawals has been restored in whole or in part, whichever is the earlier.

Section 9.03. CANCELLATION BY THE FUND. If (i) 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 (30) days, or (ii) at any time the Fund determines, after consultation with the Borrower that any amount of the Loan will not be required for the purposes of the Project, or (iii) by the date specified in the Loan Agreement as the Closing Date for withdrawals an amount of the Loan shall remain unwithdrawn from the Loan Account, the Fund may by notice to the Borrower and the Guarantor, if any, 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 9.04. AMOUNTS SUBJECT TO SPECIAL COMMITMENT. No cancellation or suspension shall apply to amounts subject to any special commitment entered into by the Fund pursuant to Section 6.02, except as expressly provided in such commitment.

Section 9.05. APPLICATION OF CANCELLATION. Except as the Fund and the Borrower shall otherwise agree, 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.

Section 9.06. EFFECTIVENESS OF PROVISIONS AFTER SUSPENSION OR CANCELLATION. Notwithstanding any cancellation or suspension, all the provisions of the Loan Agreement, the Guarantee Agreement, if any, and the Project Agreement, if any, and the Loan Administration Agreement, if any, shall continue in full force and effect except as in this Article specifically provided.

Section 9.07. ACCELERATION OF MATURITY. If any of the following events shall have occurred and continued for the period, if any, specified below, then at any subsequent time during the continuance thereof the Fund, at its option, may by notice to the Borrower and the Guarantor, if any, declare the principal of the Loan then outstanding, together with all accrued interest and other charges thereon, to be due and payable immediately, and upon any such declaration such principal, interest and other charges shall become due and payable immediately:

- (a) Any event specified in paragraph (a) or (b) of Section 9.02 shall have occurred and continued for a period of thirty (30) days.

- (b) Any event specified in paragraph (c) or (d) of Section 9.02 shall have occurred and continued for a period of sixty (60) days after notice thereof shall have been given by the Fund to the Borrower and the Guarantor, if any.
- (c) Any event specified in paragraph (h) or (j) of Section 9.02 shall have occurred.
- (d) Any other event specified in the Loan Agreement for the purposes of this Section shall have occurred and continued for the period, if any, specified in the Loan Agreement.

Section 9.08. LIEN IN FAVOR OF A CO-LENDER. If any lien or a similar privilege shall be created by the Borrower on any public assets as security in favour of a co-lender for any external debt related to a project co-financed by the Fund, which will or might result in a priority for the benefit of such co-lender in the allocation, realization or distribution of assets, such lien shall, unless the Fund shall otherwise agree, *ipso facto* and at no cost to the Fund, equally and ratably secure the principal of, and interest and other charges on, the Loan; and the Borrower, in creating or permitting the creation of such lien, shall make express provision to that effect.

Section 9.09. INFORMATION TO COOPERATING INSTITUTIONS. The Fund shall promptly inform the Cooperating Institution of any action taken under Sections 9.02, 9.03, and 9.07.

Article X. EFFECTIVENESS; TERMINATION

Section 10.01. CONDITIONS PRECEDENT TO EFFECTIVENESS. The Loan Agreement and the Guarantee Agreement, if any, shall not become effective until evidence satisfactory to the Fund shall have been furnished to the Fund that:

- (a) The execution of the Loan Agreement on behalf of the Borrower has been duly authorized or ratified by all necessary corporate and governmental action;
- (b) Where there is a Guarantee Agreement, the execution of the Guarantee Agreement on behalf of the Guarantor has been duly authorized or ratified by all necessary corporate and governmental action;
- (c) Where the Borrower is an entity other than the Member, the condition of the Borrower, as represented to the Fund at the date of the Loan Agreement has undergone no material adverse change between such date and the date specified by the Fund for the purposes of this Section, provided that the Fund shall have requested such evidence;
- (d) Where the Borrower is not a Member, the requirement of Sections 4.08(b) and 8.01(b) have been fulfilled; and
- (e) All other events specified in the Loan Agreement as additional conditions to its effectiveness have occurred.

Section 10.02. LEGAL OPINIONS. As part of the evidence to be furnished pursuant to Section 10.01, the Fund may request the Borrower to furnish, or cause to be furnished, to the Fund an opinion or opinions satisfactory to the Fund of counsel acceptable to the Fund or, if the Fund shall so request, a certificate satisfactory to the Fund of a competent official of the Member 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 on behalf of, the Borrower and is legally binding upon the Borrower in accordance with its terms;
- (b) On behalf of the Guarantor, if any, that the Guarantee Agreement has been duly authorized or ratified by, and executed on behalf of, the Guarantor and is legally binding upon the Guarantor in accordance with its terms; and
- (c) Such other additional matters as shall be specified in the Loan Agreement or the Guarantee Agreement, if any.

Section 10.03. EFFECTIVE DATE. Except as the Fund and the Borrower shall otherwise agree, the Loan Agreement and the Guarantee Agreement, if any, shall come into force and effect on the date upon which the Fund dispatches to the Borrower and to the Guarantor notice of its acceptance of the evidence required by Section 10.01.

Section 10.04. TERMINATION 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, if any, and all obligations of the parties thereunder shall terminate, unless the Fund, after consideration of the reasons for the delay, shall establish a later date for the purposes of this Section. The Fund shall promptly notify the Borrower and the Guarantor, if any, of such later date.

Section 10.05. TERMINATION ON FULL PAYMENT. If and when the entire principal amount of the Loan withdrawn from the Loan Account and all interest and other charges which shall have accrued on the Loan shall have been paid, the Loan Agreement, the Guarantee Agreement, if any, the Project Agreement, if any, and the Loan Administration Agreement, if any, and all obligations of the parties thereunder shall forthwith terminate.

Article XI. ENFORCEABILITY; FAILURE TO EXERCISE RIGHTS; ARBITRATION

Section 11.01. ENFORCEABILITY. (a) The rights and obligations of the Fund and the Borrower under the Loan Agreement and of the Fund and the Guarantor under the Guarantee Agreement, if any, shall be valid and enforceable in accordance with their terms, regardless of any law to the contrary in the territory of the Borrower or the Guarantor, if any.

(b) Neither the Fund nor the Borrower nor the Guarantor, if any, shall be entitled in any proceeding under this Article to assert any claim that any provision of these Regulations or the Loan Agreement or the Guarantee Agreement, if any, is invalid or unenforceable because of any provision of the Agreement Establishing the Fund.

Section 11.02. 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 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, regulation or order of the Member in whose territory the Project is to be carried out or of any political subdivision or agency of such Member.

Section 11.03. FAILURE TO EXERCISE RIGHTS. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under the Loan Agreement or the Guarantee Agreement, if any, 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 the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other subsequent default.

Section 11.04. ARBITRATION. (a) The parties to the Loan Agreement and the Guarantee Agreement, if any, shall endeavour to settle through amicable means any controversy between them under the Loan or the Guarantee Agreement.

(b) Failing the settlement of a controversy through amicable means under paragraph (a) above, the controversy shall be submitted to arbitration for settlement. The parties to such arbitration shall be the Fund on the one side and the Borrower and the Guarantor, if any, on the other side.

(c) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one arbitrator shall be appointed by the Fund; a second arbitrator shall be appointed by the Borrower and the Guarantor, if any, or where applicable, 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 or parties. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration, the nature of the relief sought and the name of the arbitrator appointed by the party instituting such proceeding. Within thirty (30) days after the giving of such notice, the other party or parties shall notify the party instituting the proceeding of the name of the arbitrator appointed by such other party or parties.

(e) If within sixty (60) days after the giving of the notice instituting the arbitration proceeding the parties shall not have agreed upon the Umpire, any party may request the appointment of the 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) Subject to the provisions of this Section and except as the parties shall otherwise agree, the Arbitral Tribunal shall decide all questions relating to its competence and shall 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, if any. 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. Each party shall defray its own expenses in the arbitration proceedings. The costs of the Arbitral Tribunal shall be divided between and borne equally by the Fund on the one side and the Borrower and the Guarantor, if any, on the other side. 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 the Guarantee Agreement, if any, and any claim by either party against the other such party arising thereunder.

(k) If within thirty (30) days after the counterparts of the award have been delivered to the parties the award shall not be complied with, any party may enter judgement upon, or institute a proceeding to enforce, the award in any court of competent jurisdiction against any other party, and may enforce such judgement 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, if any. Notwith-

standing the foregoing, this Section shall not authorize any entry of judgement or enforcement of the award against any party that is a Member 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 (to the extent that such remedy shall be available) in connection with any proceeding to enforce any award rendered pursuant to this Section may be made in the manner provided in Section 12.01. The parties to the Loan Agreement and the Guarantee Agreement, if any, waive any and all other requirements for the service of any such notice or process.

Article XII. MISCELLANEOUS PROVISIONS

Section 12.01. NOTICES AND REQUESTS. Any notice or request required or permitted to be given or made under the Loan Agreement or the Guarantee Agreement, if any, and any other agreement between any of the parties contemplated by the Loan Agreement or the Guarantee Agreement, if any, shall be in writing. Except as otherwise provided in Section 10.03, such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or 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 the Guarantee Agreement, if any, or at such other address as such party shall have designated by notice to the party giving such notice or making such request.

Section 12.02. AUTHORITY TO TAKE ACTION. Any action required or permitted to be taken, and any documents required or permitted to be executed, under the Loan Agreement or the Guarantee Agreement, if any, on behalf of the Borrower or the Guarantor, as the case may be, 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 purpose 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, if any, may be agreed to on behalf of the Borrower or the Guarantor, as the case may be, 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 or other person, 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, as the case may be. The Fund may accept the execution by such representative or other person of any such instrument as conclusive evidence that in the opinion of such representative or other person any modification or amplification of the provisions of the Loan Agreement or the Guarantee Agreement, if any, 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 12.03. EVIDENCE OF AUTHORITY. The Borrower and the Guarantor, if any, shall furnish to the Fund 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 12.04. EXECUTION IN COUNTERPARTS. The Loan Agreement, the Guarantee Agreement, if any, the Project Agreement, if any, the Loan Administration Agreement, if any, may be executed in several counterparts, each of which shall be an original.