

CONFORMED COPY

LOAN NUMBER 3083 ME

(Hydroelectric Development Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

NACIONAL FINANCIERA, S.N.C.

Dated September 25, 1989

LOAN NUMBER 3083 ME

LOAN AGREEMENT

AGREEMENT, dated September 25, 1989 between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and NACIONAL FINANCIERA S.N.C. (the Borrower).

WHEREAS (A) the United Mexican States (the Guarantor), the Borrower and COMISiIN FEDERAL DE ELECTRICIDAD (CFE), having been satisfied as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, have requested the Bank to assist in the financing of the Project;

(B) by an agreement (the Guarantee Agreement) of even date herewith between the Guarantor and the Bank, the Guarantor has agreed to guarantee the obligations of the Borrower in respect of the Loan and to undertake such other obligations as set forth in the Guarantee Agreement;

(C) by an agreement (the Project Agreement) of even date herewith, between the Bank and CFE, the latter has agreed to undertake the obligations set forth in the Project Agreement; and

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the Loan to the Borrower upon the terms and conditions set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements" of the Bank, dated January 1, 1985 (the General Conditions), with the last sentence of Section 3.02 deleted, constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Peso" means the currency of the Guarantor;

(b) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement;

(c) "CFE" means Comision Federal de Electricidad, (Federal Electricity Commission) wholly owned by the Guarantor and established by the Ley que crea la Comision Federal de Electricidad, published in the Diario Oficial of the Guarantor on August 24, 1937 as amended through October 1, 1988;

(d) "SEMIP" means Secretaria de Energia, Minas e Industria Paraestatal, (Ministry of Energy, Mines and Parastatal Industries) of the Guarantor;

(e) "Project Agreement" means the agreement between the Bank and CFE of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement;

(f) "Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and CFE pursuant to Section 3.01 (a) of this Agreement, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Subsidiary Loan Agreement;

(g) "Financial Rehabilitation Agreement" means the agreement between the Guarantor and CFE dated August 20, 1986, and when applicable, as amended pursuant to Section 3.05 (c) of the Guarantee Agreement;

(h) "Ten-Year Investment Plan" means the Programa de Obras e Inversiones del Sector Electrico - POISE, the program of works and investments for the electric power sector of the Guarantor dated March 3, 1989; and

(i) "Environmental and Resettlement Plan" means the plan of action to carry out Part B of the Project, including the guidelines for directing the process of mobilization, resettlement, rehabilitation, compensation and environment protection, and a detailed schedule for implementation, furnished to the Bank on April 21, 1989.

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, an amount in various currencies equivalent to four hundred and sixty million dollars (\$460,000,000).

Section 2.02. (a) The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made or, if the Bank shall so agree, to be made in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Loan.

(b) The Borrower shall, for the purposes of the Project, open and maintain in dollars a special account on terms and conditions satisfactory to the Bank. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 5 to this Agreement.

Section 2.03. The Closing Date shall be December 31, 1996 or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower and the Guarantor of such later date.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ($3/4$ of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.05. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate per annum for each Interest Period equal to one-half of one percent ($1/2$ of 1%) per annum above the Cost of Qualified Borrowings for the last Semester ending prior to the commencement of such Interest Period.

(b) As soon as practicable after the end of each Semester, the Bank shall notify the Guarantor and the Borrower of the Cost of Qualified Borrowings for such Semester.

(c) For purposes of this Section:

- (i) "Interest Period" means the six-month period commencing on each date specified in Section 2.06 of this Agreement, including the Interest Period in which this Agreement is signed.
- (ii) "Cost of Qualified Borrowings" means the cost of the outstanding borrowings of the Bank drawn down after June 30, 1982, expressed as a percentage per annum, as reasonably determined by the Bank.
- (iii) "Semester" means the first six months or the second six months of a calendar year.

Section 2.06. Interest and other charges shall be payable semiannually on January 1 and July 1 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

ARTICLE III

Transfer of Loan Proceeds;
Execution of the Project;
Other Covenants

Section 3.01. (a) The Borrower shall lend the proceeds of the Loan to CFE for purposes of carrying out the Project under a subsidiary loan agreement, satisfactory to the Bank, to be entered into between the Borrower and CFE, and that shall include, inter alia, the following terms and conditions:

- (i) the funds lent to CFE shall be denominated in dollars;
- (ii) CFE shall pay the same charges, interest and have the same amortization period as are set forth in Sections 2.04 through 2.07 of this Agreement, on all amounts withdrawn and outstanding under the Subsidiary Loan Agreement; and
- (iii) CFE shall pay a fee to the Borrower of 10% of the interest due and payable on amounts withdrawn and outstanding under the Subsidiary Loan Agreement.

(b) Except as the Bank shall otherwise agree, the Borrower shall not change or fail to enforce the Subsidiary Loan Agreement, or any provision thereof.

Section 3.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to this Agreement.

Section 3.03. The Bank and the Borrower hereby agree that the obligations set forth in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions (relating respectively to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition) shall be carried out: (i) in respect of Parts A, B, and D of the Project, by CFE pursuant to Section 2.04 of the Project Agreement; and (ii) in respect of Part C of the Project by the Guarantor pursuant to Section 3.03 of the Guarantee Agreement.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain, or cause to be maintained, the Special Account, and separate records and accounts adequate to reflect in accordance with sound accounting practices, the resources and expenditures in connection with the execution of the Project:

(b) The Borrower shall:

- (i) have such separate records and the Special Account for each fiscal year audited, in accordance with generally accepted auditing standards and practices consistently applied, by independent and qualified auditors;
- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested;
- (iii) furnish to the Bank each month certified statements of the Special Account; and
- (iv) furnish to the Bank such other information concerning the Special Account, the audit thereof and said records as the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Loan Account were made on the basis of statements of expenditure, the Borrower shall:

- (i) maintain, or cause to be maintained, in accordance with paragraph (a) of this Section, records and

accounts reflecting such expenditures;

- (ii) retain, or cause to be retained, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Bank's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

ARTICLE V

Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (k) of the General Conditions, the following additional events are specified:

(a) CFE shall have failed to perform any of its obligations under the Project Agreement;

(b) 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 CFE will be able to perform its obligations under the Project Agreement;

(c) the Guarantor or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of CFE, or for the suspension of its operations; and

(d) a change shall have been made in the Environmental and Resettlement Plan which could materially and adversely affect the carrying out of the Project, or any part thereof.

Section 5.02. Pursuant to Section 7.01 (h) of the General Conditions, the following additional events are specified:

(a) the event specified in paragraph (a) of Section 5.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower; and

(b) the event specified in paragraph (c) of Section 5.01 of this Agreement shall occur.

ARTICLE VI

Effective Date; Termination

Section 6.01. The following events are specified as additional conditions to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions:

(a) the Subsidiary Loan Agreement has been executed on behalf of the Borrower and CFE; and

(b) that CFE has made progress satisfactory to the Bank in the implementation of Part B.1 of the Project.

Section 6.02. The following are specified as additional matters, 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:

(a) that the Project Agreement has been duly executed and authorized, and is legally binding upon, CFE in accordance with its terms; and

(b) that the Subsidiary Loan Agreement has been executed and duly authorized by, and is legally binding upon, the Borrower and CFE in accordance with its terms.

Section 6.03. The date December 27, 1989 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 Director Internacional 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 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.

Telex:

440098 (ITT)
248423 (RCA) or
64145 (WUI)

For the Borrower:

Direccion Internacional
Nacional Financiera, S.N.C.
Plaza NAFINSA, Insurgentes Sur 1971
Torre Sur, 11^o Piso
CP 01020, Mexico D.F.
Mexico

Cable address:

NAFIN
Mexico City

Telex:

NAFIME 383-1775765
Mexico City

Fax:

548-5191

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

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ S. Shahid Husain
Regional Vice President

Latin American and the Caribbean

NACIONAL FINANCIERA, S.N.C.

By /s/ Juan Jose Paramo
Authorized Representative

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Loan, the allocation of the amounts of the Loan to each Category and the percentage of expenditures for items so to be financed in each Category:

Category	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(1) Civil works and Consultants' Ser- vices under Part A of the Project:		
(a) Civil works under Parts A.1 (a) through (e) of the Project	290,000,000	85%
(b) Civil works under Parts A.2 (a) through (d) of the Project	124,400,000	85%
(c) Consultants' services under Part A.3 of the Project	600,000	100%
(2) Goods, Training and Consultants' Services under Part B of the Project:		
(a) Goods	400,000	100% of foreign expenditures and 100% of local expenditures (ex-factory cost)
	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(b) Consultants' Services and Training	600,000	100%
(3) Goods, Consul- tants' Services and Training under Part C of the Project:		

(a) Goods	1,100,000	100% of foreign expenditures and 100% of local expenditures (ex-factory costs)
(b) Consultants' Services and Training	1,400,000	100%
(4) Consultants' Services under Part D of the Project	1,500,000	100%
(5) Unallocated	40,000,000	
TOTAL	460,000,000	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Guarantor for goods or services supplied from the territory of any country other than that of the Guarantor; and

(b) the term "local expenditures" means expenditures in the currency of the Guarantor or for goods or services supplied from the territory of the Guarantor.

3. Notwithstanding the provisions of paragraph 1 above:

(a) no withdrawals shall be made in respect of payments made for expenditures eligible under categories (1) through (4) prior to the date of this Agreement, except that withdrawals in an aggregate amount not exceeding the equivalent of \$20,000,000, may be made on account of payments made for expenditures before that date but after August 31, 1988; and

(b) no withdrawals shall be made for Category (1) (b) unless the Final Engineering Design for the Zimapan Power Plant has been completed.

SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Guarantor in: (1) achieving its power sector financing needs; (2) diversifying power generation sources; (3) increasing the availability of electricity to consumers; and (4) improving CFE's capacity to deal with social and environmental aspects of power projects.

The Project consists of the following parts, subject to such modifications thereof as the Guarantor and the Bank may agree upon from time to time to achieve such objectives:

Part A: Hydroelectric Power Plants

1. The Aguamilpa Power Plant. Construction of a 960 megawatt hydroelectric power plant consisting of: (a) river diversion and infrastructure works; (b) a concrete-faced rock-filled dam; (c) a spillway; (d) three pressure tunnels; (e) an underground power house; (f) three generating units; (g) a substation and associated transmission lines; and (h) resettlement and environmental works.

2. The Zimapan Power Plant. Construction of a 280 megawatt hydroelectric power plant consisting of: (a) river diversion and infrastructure works; (b) a concrete arch dam; (c) a spillway; (d) a pressure tunnel and intake works; (e) an underground power

house; (f) two generating units; (g) a substation and associated transmission lines; and (h) resettlement and environmental works.

3. Consultants' Services. Hiring of specialized consultants to provide assistance in carrying out Parts A.1 and A.2 of the Project.

Part B: Social and Environmental Program

1. Carrying out of a program of environmental protection and resettlement of population displaced by the construction of hydroelectric power plants under Parts A.1 and A.2 of the Project, including:

(a) creation of local resettlement and environmental teams;

(b) carrying out a study to establish methods to salvage archeological findings;

(c) surveying construction sites and salvaging archeological findings from such sites; and

(d) carrying out a study to determine the effects of, and to control contamination, disease and aquatic vegetation resulting from the impounding of the Santiago, Tula and San Juan Rivers by construction of the dams under the Project.

2. Carrying out of a program of environmental protection and resettlement of population displaced by the construction of hydroelectric power plants, including:

(a) development of a set of guidelines for carrying out such resettlement and environmental protection;

(b) strengthening the capacity of CFE's staff units responsible for socio-economic, environmental affairs and regional planning related to hydroelectric plants;

(c) training of CFE staff, including foreign and local courses; and

(d) acquisition and utilization of pollution control, monitoring and training equipment.

Part C: Energy Related Studies

1. Carrying out the following:

A. Energy Conservation.

(i) A study on, and the establishment of, energy saving standards and incentives for industry and commerce;

(ii) A study to determine methods to improve efficiency of water pumping and air conditioning equipment, including establishment of centers to demonstrate model equipment;

(iii) A study on, and the establishment of, regional centers to promote energy savings; and

(iv) A study to determine training requirements to carry out energy conservation programs in Mexico.

B. Co-Generation. A study of alternative means of power generation and incentives required for industrial co-generation of power in Mexico.

2. Acquisition and utilization of laboratory equipment to carry out such studies.

3. Training required to carry out Part C.1 of the Project.

Part D: Other Studies

1. Operations Improvement. A study to improve the operation of CFE's electric power system, including analysis of design criteria, operating practices, and efficiency of transmission and distribution installations.
2. Management. A study to develop improvements of CFE's organizational and management systems.
3. Tariffs. A study to set up a tariff system based on marginal costs for medium voltage consumers.

* * * *

The Project is expected to be completed by June 30, 1996.

SCHEDULE 3

Amortization Schedule

Date Payment Due	Payment of Principal (expressed in dollars)*
On each January 1 and July 1 beginning January 1, 1995 through January 1, 2006	19,165,000
On July 1, 2006	19,205,000

* The figures in this column represent dollar equivalent determined as of the respective dates of withdrawal. See General Conditions, Sections 3.04 and 4.03.

Premiums on Prepayment

The following premiums are specified for the purposes of Section 3.04 (b) of the General Conditions:

Time of Prepayment	Premium
	The interest rate (expressed as a percentage per annum) applicable to the balance outstanding on the Loan on the day of prepayment multiplied by:
Not more than three years before maturity	0.18
More than three years but not more than six years before maturity	0.35
More than six years but not more than eleven years before maturity	0.65
More than eleven years but not more than fifteen years before maturity	0.88
More than fifteen years before maturity	1.00

SCHEDULE 4

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: International Competitive Bidding

1. Except as provided in Part C hereof, goods and works shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1985 (the Guidelines).

2. Bidders for the works included in Part A of the Project shall be prequalified as described in paragraph 2.10 of the Guidelines.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A.1 of this Section hereof, goods manufactured in the United Mexican States may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part C: Other Procurement Procedures

Limited International Bidding. Goods under Parts B and C of the Project estimated to cost less than \$500,000 per contract, up to an aggregate amount not to exceed the equivalent of \$2,000,000, may be procured under contracts awarded on the basis of comparison of price quotations solicited from a list of at least three suppliers from at least two different countries eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

Part D: Review by the Bank of Procurement Decisions

1. With respect to the prequalification of bidders as provided in Part A.2 hereof, the procedures set forth in paragraph 1 of Appendix 1 to the Guidelines shall apply.

2. (a) With respect to each contract estimated to cost the equivalent of \$500,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. When payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Bank pursuant to said paragraph 2 (d) shall be furnished to the Bank prior to the making of the first payment out of the Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. When payments for such contract are to be made out of the Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the other information required to be furnished to the Bank pursuant to said paragraph 3 shall be furnished to the Bank as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 5 to the Loan Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which the Bank has authorized withdrawals from the Loan Account on the basis of statements of expenditure. Such contracts shall be retained in accordance with Section 4.01 (c) (ii) of the Loan Agreement or Section 4.01 (c) (ii) of the Project Agreement, when applicable.

3. The figure of 20% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II: Employment of Consultants

In order to assist the Guarantor and CFE in carrying out the Project, the Guarantor and CFE shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981.

SCHEDULE 5

Special Account

1. For the purposes of this Schedule:

(a) the term "Eligible Categories" means Categories (1) through (4) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "Eligible Expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Loan allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Initial Deposit" means an amount equivalent to \$35,000,000 to be withdrawn from the Loan Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule. The Borrower shall make withdrawals from the Special Account for payments of Eligible Expenditures on the basis of the evidence that the Bank shall have reasonably determined, and shall debit the Special Account with the amount in dollars so withdrawn or with the dollar equivalent of the currency other than dollars in which the payment was made, determined on the basis of the rate of exchange between the dollar and such currency in effect: (i) on the date each payment shall have been made, if the payment has taken place within 90 days before the date of the withdrawal in question has been requested; or (ii) on the date each withdrawal shall have been made.

3. The Bank may, at the request of the Borrower, withdraw on behalf of the Borrower from the Loan Account and deposit into the Special Account the Initial Deposit. Thereafter, and on the basis of requests by the Borrower furnished to the Bank at such intervals as the Bank shall specify, the Bank shall further so withdraw from the Loan Account and deposit into the Special Account such amounts as shall be required to replenish the Special Account for Eligible Expenditures, but only to the extent that the amount of any such deposit, together with any amount remaining on deposit in the Special Account as of the date of such request, shall not exceed, in the aggregate, the equivalent of the Initial Deposit. Except as the Bank may otherwise agree, each such deposit after the Initial Deposit shall be withdrawn by the Bank from the Loan Account under the respective Eligible Categories, and in the respective equivalent amounts, as shall have been justified by the evidence supporting the request for such deposit furnished pursuant to paragraph 4 of this Schedule.

4. Prior to or at the time of each request by the Borrower for a deposit by the Bank into the Special Account after the Initial Deposit, the Borrower shall furnish to the Bank in respect of each payment made by the Borrower out of the Special Account, such documents and other evidence as the Bank shall reasonably request, showing that such payment was made for Eligible Expenditures.

5. Notwithstanding the provisions of paragraph 3 of this

Schedule, when the total unwithdrawn amount of the Loan allocated to the Categories, minus the amount of any outstanding special commitment entered into by the Bank pursuant to Section 5.02 of the General Conditions, shall be equal to the equivalent of twice the amount of the Initial Deposit, the Bank shall be entitled, after consultation with the Borrower, to reduce the percentage of disbursements for Eligible Expenditures or take any other action which will ensure the Bank that by the time of disbursements of the total amount of the proceeds of the Loan, all deposits (including the Initial Deposit made by the Bank into the Special Account) were made for Eligible Expenditures.

6. (a) If the Bank shall have determined at any payment out of the Special Account:

- (i) was made for any expenditure or in any amount not eligible for financing by withdrawal from the Loan Account; or
- (ii) was not justified by the documentation furnished pursuant to paragraph 4 above, the Bank shall notify the Borrower of such circumstances, and if, after a period of 30 days from the issuance of such notice, an amount equal to the amount of such payment or the portion thereof not so eligible or justified has not been deposited by the Borrower into the Special Account or, if the Bank shall so request, refunded, to the Bank, the Bank may, without in any way restricting or limiting any other rights, power, or remedy of the Bank under the Loan Agreement, refrain from making further deposits into such Account.

(b) if any amount outstanding in the Special Account will not be required to cover further payments for Eligible Expenditures, the Borrower shall, promptly upon notice from the Bank, and unless otherwise agreed by the Bank, refund to the Bank such amount then outstanding in the Special Account for crediting to the Loan Account and immediate cancellation.

