

No. 3939

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

Guarantee Agreement — *Air-India Project* (with annexed Loan Regulations No. 4 and Loan Agreement — *Air-India Project* between the Bank and Air-India International Corporation). Signed at Washington, on 5 March 1957

Official text: English.

Registered by the International Bank for Reconstruction and Development on 17 July 1957.

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

Contrat de garantie — *Projet Air India* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt — *Projet Air India* entre la Banque et la Air-India International Corporation). Signé à Washington, le 5 mars 1957

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 17 juillet 1957.

No. 3939. GUARANTEE AGREEMENT¹ (*AIR-INDIA. PROJECT*) BETWEEN INDIA AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 5 MARCH 1957

AGREEMENT, dated March 5, 1957, between INDIA, acting by its President (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by an agreement of even date herewith between the Bank and Air-India International Corporation (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,² the Bank has agreed to make to the Borrower a loan in various currencies equivalent to five million six hundred thousand dollars (\$5,600,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed so to guarantee such obligations of the Borrower;

NOW THEREFORE the parties hereto hereby agree as follows :

Article I

Section 1.01. The parties to this Guarantee Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,² subject, however, to the modifications thereof set forth in Schedule 3³ to the Loan Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein. The terms defined in said Loan Agreement shall have the same meaning herein as if such definitions were fully set forth herein.

¹ Came into force on 28 June 1957, upon notification by the Bank to the Government of India.

² See p. 210 of this volume.

³ See p. 222 of this volume.

Article II

Section 2.01. Without limitation or restriction upon any of the other covenants on its part in this Agreement contained, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of and interest on the Bonds, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, and the punctual performance of all the covenants and agreements of the Borrower, all as set forth in the Loan Agreement and in the Bonds.

Section 2.02. Without limitation or restriction upon the provisions of Section 2.01 of this Agreement, the Guarantor specifically undertakes to provide to the Borrower funds sufficient duly to redeem its 3½% Bonds, and further specifically undertakes, whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for carrying out the Project, to make arrangements, satisfactory to the Bank, promptly to provide the Borrower or cause the Borrower to be provided with such funds as are needed to meet such expenditures.

Article III

Section 3.01. It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Guarantor undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision as security for any external debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (a) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (b) any pledge of commercial goods to secure debt maturing not more than one year after its date and to be paid out of the proceeds of sale of such commercial goods; or (c) any pledge by the Reserve Bank of India of any of its assets in the ordinary course of its banking business to secure any indebtedness maturing not more than one year after its date.

Section 3.02. (a) The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end,

each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor and the international balance of payments position of the Guarantor.

(b) The Guarantor and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Guarantor shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(c) The Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Guarantor for purposes related to the Loan.

Section 3.03. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes (including duties, fees or impositions) imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of, or duties or fees or impositions levied upon, payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

Section 3.04. This Agreement, the Loan Agreement and the Bonds shall be free from any taxes (including duties, fees or impositions) that shall be imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

Section 3.05. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid free from all restrictions imposed under the laws of the Guarantor or laws in effect in its territories.

Section 3.06. Until the entire principal amount of the Loan and the Bonds and the premium, if any, on the prepayment of the Loan and on the redemption of all Bonds called for redemption (as the case may be) and all interest and other charges which shall have accrued on the Loan and the Bonds shall have been paid, the Guarantor undertakes that, except as the Bank shall otherwise agree, the Guarantor will not ask, demand, sue for, take or receive from the Borrower payment of the whole or any part of the funds heretofore or hereafter advanced by the Guarantor to the Borrower, or any interest or other return on any such funds except to the extent permissible under the provisions of subsection (g) of Section 4.02 of the Credit Agreement.

Article IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. A Secretary to the Government of India in the Ministry of Finance is designated as the authorized representative of the Guarantor for the purposes of Section 6.12 (b) of the Loan Regulations.

Article V

Section 5.01. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Guarantor :

The Secretary to the Government of India
Ministry of Finance
New Delhi
India

Alternative address for cablegrams and radiograms :

Finance Ministry
New Delhi

For the Bank :

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington 25, D.C.
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad
Washington, D.C.

Section 5.02. A Secretary to the Government of India in the Ministry of Finance is designated for the purposes of Section 8.03 of the Loan Regulations.

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

India :

By Harishwar DAYAL
Authorized Representative

International Bank for Reconstruction and Development :

By Eugene R. BLACK
President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 JUNE 1956

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO BORROWERS OTHER THAN
MEMBER GOVERNMENTS

[*Not published herein. See United Nations, Treaty Series, Vol. 260, p.376.*]

LOAN AGREEMENT (*AIR-INDIA PROJECT*)

AGREEMENT, dated March 5, 1957, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and AIR-INDIA INTERNATIONAL CORPORATION (hereinafter called the Borrower), a corporation organized under The Air Corporations Act, 1953 of India.

WHEREAS the Borrower has entered, or proposes to enter, into contracts for the purchase of three four-engine Boeing long-range jet aircraft, spare engines, a flight simulator, ancillary equipment, and spare parts, estimated to involve expenditures amounting to the equivalent of approximately \$23,000,000;

WHEREAS the Borrower in order to raise a part of the funds required for this purpose has entered into the Credit Agreement (as hereinafter defined) providing for loans to the Borrower in an aggregate principal amount not exceeding \$11,200,000; and

WHEREAS the Bank has agreed to supply an additional amount of the funds required by the Borrower for this purpose by making the loan provided for herein;

NOW THEREFORE, it is hereby agreed as follows :

Article I

LOAN REGULATIONS; DEFINITIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,¹ subject, however, to the modifications thereof set forth in Schedule 3² to this Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

Section 1.02. Wherever used in this Agreement or the Loan Regulations the following terms shall have the following meanings :

The term "Credit Agreement" means the Agreement dated January 31, 1957, between the Borrower and The First National City Bank of New York (for itself and as

¹ See above

² See p. 222 of this volume.

agent), Bank of America National Trust and Savings Association, The Chase Manhattan Bank, Irving Trust Company, and The First National Bank of Boston severally, providing for loans to the Borrower in an aggregate principal amount not exceeding \$11,200,000.

The term "Institutions" means the banking institutions named in Section 1.01 of the Credit Agreement or any of them as the context may require.

The term "notes" means the notes as defined in Section 1.02 of the Credit Agreement.

Article II

THE LOAN

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in this Agreement set forth or referred to, an amount in various currencies equivalent to five million six hundred thousand dollars (\$5,600,000).

Section 2.02. The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Account the amount of the Loan. The amount of the Loan may be withdrawn from the Loan Account as provided in, and subject to the rights of cancellation and suspension set forth in, the Loan Regulations.

Section 2.03. 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 so withdrawn from time to time. Notwithstanding the provisions of Section 2.02 of the Loan Regulations, such commitment charge shall accrue from a date sixty days after the date of this Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Loan Account as provided in Article IV of the Loan Regulations or shall be cancelled pursuant to Article V of the Loan Regulations.

Section 2.04. The Borrower shall pay interest at the rate of five and one-half per cent ($5\frac{1}{2}\%$) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

Section 2.05. Except as the Bank and the Borrower shall otherwise agree, the charge payable for special commitments entered into by the Bank at the request of the Borrower pursuant to Section 4.02 of the Loan Regulations shall be at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per annum on the principal amount of any such special commitments outstanding from time to time.

Section 2.06. Subject to the provisions of Section 2.07, interest and other charges shall be payable semi-annually on April 1 and October 1 in each year.

Section 2.07. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1¹ to this Agreement, provided that if the Borrower shall have fully discharged its indebtedness to the Institutions before March 31, 1965, it shall, unless the Bank shall otherwise agree, repay the Loan in four

¹ See p. 220 of this volume.

semi-annual installments corresponding in amount to the installments set forth in the amortization schedule and beginning on the first day of the month next following that in which such indebtedness shall have been fully discharged as aforesaid; provided further that in no event shall any such installment be paid later than the applicable date set forth in said amortization schedule.

In the event that by reason of the foregoing provisions of this Section any semi-annual installment shall be paid on a date other than April 1 or October 1, then, unless the Bank and the Borrower shall otherwise agree, interest and other charges shall be payable on such other date.

Article III

USE OF PROCEEDS OF THE LOAN

Section 3.01. The Borrower shall apply the proceeds of the Loan exclusively to financing the cost of goods required to carry out the Project described in Schedule 2¹ to this Agreement. The specific goods to be financed out of the proceeds of the Loan shall be determined by agreement between the Bank and the Borrower, subject to modification by further agreement between them.

Section 3.02. The Borrower shall cause all goods financed out of the proceeds of the Loan to be used for the purposes of civil air transport services conducted under the Indian flag in the ordinary course of the business of the Borrower.

Article IV

BONDS

Section 4.01. The Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in the Loan Regulations.

Section 4.02. The General Manager for the time being of the Borrower and such other person or persons (acting jointly or severally as may be specified) as the Borrower may appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 6.12 (a) of the Loan Regulations.

Article V

PARTICULAR COVENANTS

Section 5.01. (a) The Borrower shall carry out the Project with due diligence and efficiency and in conformity with sound financial practices.

(b) The Borrower shall maintain records adequate to identify the goods financed out of the proceeds of the Loan; shall enable the Bank's representatives to inspect the goods and any relevant records and documents; and shall furnish to the Bank all such

¹ See p. 222 of this volume.

information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, the goods, and the operations and financial condition of the Borrower.

Section 5.02. Except as the Bank and the Borrower shall otherwise agree or as otherwise provided herein, the Borrower shall duly perform and observe all of the covenants contained in Article IV of the Credit Agreement as if such covenants were fully set forth herein and expressed *mutatis mutandis* as covenants made by the Borrower to the Bank. For the purposes of this Section the terms defined in the Credit Agreement shall have the same meanings as if such definitions were fully set forth herein.

Section 5.03. (a) The Bank and the Borrower shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan.

(b) The Bank and the Borrower shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Borrower shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

Section 5.04. The Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower as security for any debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property (other than property financed out of the proceeds of the Loan), at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (ii) any lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods; or (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

Section 5.05. The Borrower shall pay or cause to be paid all taxes or fees, if any, imposed under the laws of the Guarantor or laws in effect in the territories of the Guarantor on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement or the Bonds, or the payment of principal, interest or other charges thereunder; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporated resident of the Guarantor.

Section 5.06. The Borrower shall pay or cause to be paid all taxes and fees, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries

on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement or the Bonds.

Article VI

REMEDIES OF THE BANK

Section 6.01. (i) If any event specified in paragraph (a), paragraph (b), paragraph (e) or paragraph (f) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or (ii) if any event specified in paragraph (j), paragraph (k) or paragraph (l) of Section 5.02 of the Loan Regulations shall occur, or (iii) if any event specified in paragraph (c) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Agreement or in the Bonds to the contrary notwithstanding.

Article VII

EFFECTIVE DATE; TERMINATION

Section 7.01. The following events are specified as additional conditions to the effectiveness of this Agreement within the meaning of Section 9.01 (a) (ii) and Section 9.01 (b) (ii) of the Loan Regulations :

- (a) The conditions precedent set forth in subsections (a), (b) (c), (d), (e), (f), (g), (h) and (j) of Section 3.01 of the Credit Agreement have been fulfilled or are readily capable of fulfillment at the due time, all upon terms satisfactory to the Bank;
- (b) all of the Borrower's 4% Debentures due May 31, 1959 have been duly paid off and the security therefor discharged (or arrangements satisfactory to the Bank made therefor).

Section 7.02. The following are specified as additional matters, within the meaning of Section 9.02 (e) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank :

- (a) that all of the Borrower's 4% Debentures due May 31, 1959 have been fully paid off and the security therefor discharged (or due provision made therefor);
- (b) that the Credit Agreement has been duly authorized or ratified by, and executed and delivered on behalf of the Borrower and constitutes a valid and binding obligation of the Borrower in accordance with its terms.

Section 7.03. A date 90 days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

Article VIII

MISCELLANEOUS

Section 8.01. The Closing Date shall be December 31, 1959.

Section 8.02. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower :

Air-India International Corporation
Mahatma Gandhi Road
Bombay, India

Alternative address for cablegrams and radiograms :

Airindia
Bombay, India

For the Bank :

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington 25, D.C.
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad
Washington, D.C.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and delivered 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 Eugene R. BLACK
President

Air-India International Corporation :

By Edwin Taylor WARREN
Authorized Representative

SCHEDULE 1

AMORTIZATION SCHEDULE

<i>Date Payment Due*</i>	<i>Payment of Principal (expressed in dollars)**</i>	<i>Principal Amount Outstanding After Each Payment (expressed in dollars)**</i>	<i>Date Payment Due*</i>	<i>Payment of Principal (expressed in dollars)**</i>	<i>Principal Amount Outstanding After Each Payment (expressed in dollars)**</i>
October 1, 1964 . . .	—	\$5,600,000	April 1, 1966 . . .	1,680,000	1,680,000
April 1, 1965 . . .	\$560,000	5,040,000	October 1, 1966 . . .	1,680,000	—
October 1, 1965 . . .	1,680,000	3,360,000			

* These dates are subject to variation in accordance with the provisions of Section 2.07 of this Agreement.

** To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.02), the figures in these columns represent dollar equivalents determined as for purposes of withdrawal.

PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any part of the principal amount of the Loan pursuant to Section 2.05 (b) of the Loan Regulations or on the redemption of any Bond prior to its maturity pursuant to Section 6.16 of the Loan Regulations :

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than 2 years before maturity	1½%
More than 2 years but not more than 4 years before maturity	2%
More than 4 years but not more than 6 years before maturity	3½%
More than 6 years but not more than 8 years before maturity	4½%
More than 8 years before maturity	5½%

SCHEDULE 2

DESCRIPTION OF PROJECT

The Project consists of the acquisition by the Borrower of three fully equipped four-engine Boeing long-range jet aircraft, nine spare engines, a flight simulator, ancillary equipment, including overhaul facilities and a test cell, and initial spare parts and stores.

SCHEDULE 3

MODIFICATIONS OF LOAN REGULATIONS NO. 4

For the purposes of this Agreement the provisions of Loan Regulations No. 4 of the Bank, dated June 15, 1956, shall be deemed to be modified as follows :

(a) By the deletion of subparagraph (j) of Section 5.02 and the substitution thereof of the following subparagraph, namely :

“(j) If, pursuant to Section 5.01 of the Credit Agreement, any of the Institutions shall terminate its commitment thereunder or if any of the notes shall be declared to be due and payable.”

(b) By the addition in Section 5.02 of the following new subsections, namely :

“(k) If, without the prior agreement of the Bank, any provision of the Credit Agreement shall be amended, assigned or abrogated or a waiver granted in respect of any such provision.

“(l) If any Institution shall fail to make all or any of the loans provided for in the Credit Agreement by reason of the inability of the Borrower to furnish the documents provided for in Section 3.01 of the Credit Agreement, the certificate provided for in Section 3.02 thereof or the evidence referred to in Section 3.03 thereof.”

(c) By the addition in Section 6.11 of the following new subparagraph, namely :

“(d) Bonds bearing one date may be exchanged for Bonds bearing any other date and Bonds providing for any particular semi-annual interest payment dates may be exchanged for Bonds providing for other semi-annual interest payment dates, if the same shall be required in order to give full effect to the provisions of Section 2.07 of the Loan Agreement.”