

No. 9588

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

**Guarantee Agreement—*Dawood Hercules Fertilizer Project*
(with annexed Loan Regulations No. 4, as amended,
and Loan Agreement between the Bank and Dawood
Hercules Chemicals Limited). Signed at Washington
on 10 July 1968**

Authentic text: English.

*Registered by the International Bank for Reconstruction and Development on
23 May 1969.*

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

**Contrat de garantie — *Projet relatif aux engrais Dawood
Hercules* (avec, en annexe, le Règlement n° 4 sur
les emprunts, tel qu'il a été modifié, et le Contrat
d'emprunt entre la Banque et la Dawood Hercules
Chemicals Limited). Signé à Washington le 10 juillet
1968**

Texte authentique: anglais.

*Enregistré par la Banque internationale pour la reconstruction et le développe-
ment le 23 mai 1969.*

GUARANTEE AGREEMENT ¹

AGREEMENT, dated July 10, 1968, between the ISLAMIC REPUBLIC OF PAKISTAN, 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 Dawood Hercules Chemicals Limited (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 thirtytwo million dollars (\$ 32,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the payment of the principal, interest and other charges on such loan; 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 February 15, 1964 as amended February 9, 1967, ³ subject, however, to the modifications thereof set forth in Schedule 4 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.

Section 1.02. Wherever used in this Guarantee Agreement, unless the context shall otherwise require, the several terms defined in the Loan Agreement shall have the respective meanings therein set forth.

¹ Came into force on 31 January 1969, upon notification by the Bank to the Government of Pakistan.

² See p. 118 of this volume.

³ See p. 116 of this volume.

Article II

Section 2.01. Without limitation or restriction upon any of the other covenants on its part in this Guarantee 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 and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, all as set forth in the Loan Agreement and in the Bonds.

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 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; or (b) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term "assets of the Guarantor" as used in this Section includes assets of the Guarantor or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision, including the State Bank of Pakistan or any other institution performing the functions of a central bank.

Section 3.02. (a) The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan shall 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, and free from all restrictions, 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 taxes 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 Guarantee Agreement, the Loan Agreement, the Shareholders Agreement,¹ the Trust Deed and the Bonds shall be free from any taxes 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 Guarantor will not take or permit any of its political subdivisions or any of its agencies, or any agency of any political subdivision, to take any action which would prevent or interfere with the performance by the Borrower of any of the covenants, agreements and obligations of the Borrower set forth in the Loan Agreement, and will take or cause to be taken all reasonable action which shall be necessary in order to enable the Borrower to perform such covenants, agreements and obligations.

Article IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the Loan Agreement and the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. The Secretary to the Government of Pakistan, Ministry of Finance, and such person or persons as he shall designate in writing are designated as the authorized representatives 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 :

¹ Shareholders Agreement (*Dawood Hercules Fertilizer Project*) between the International Bank for Reconstruction and Development and Dawood Hercules Chemicals Limited and Hercules Incorporated and Ahmed Dawood, Siddique Dawood, Suleman Dawood, Dawood Corporation Limited and Dawood Industries Limited, signed at Washington on 10 July 1968. Not published herein.

For the Guarantor :

The Secretary to the Government of Pakistan
Economic Affairs Division
Islamabad, Pakistan

Cable address :

Economic
Islamabad

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.

Section 5. 02. The Secretary to the Government of Pakistan, Economic Affairs Divisions, is designated for the purpose 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 to be delivered in the District of Columbia, United States of America, as of the day and year first above written.

Islamic Republic of Pakistan :

By A. R. BASHIR
Authorized Representative

International Bank for Reconstruction and Development :

By J. Burke KNAPP
Vice President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 FEBRUARY 1961,
AS AMENDED 9 FEBRUARY 1967

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

[*Not published herein. See United Nations, Treaty Series, Vol. 598, p. 270.*]

LOAN AGREEMENT

AGREEMENT, dated July 10, 1968, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and DAWOOD HERCULES CHEMICALS LIMITED, a corporation organized and existing under the laws of Pakistan (hereinafter called the Borrower).

WHEREAS (A) The Borrower was incorporated on April 17, 1968 under the Companies Act, 1913, of Pakistan with the purposes and powers set forth in its Memorandum and Articles of Association and for the immediate purpose of undertaking the Project as herein defined.

(B) The capital shares of the Borrower, of a par value of Rs 10 each, have been or will be issued as follows :

- (1) 5,560,000 shares to Hercules Incorporated (hereinafter called Hercules), a corporation organized and existing under the laws of the State of Delaware, United States of America, in consideration of payments made or to be made in dollars aggregating the equivalent of Rs 55,600,000 ;
- (2) 5,560,000 shares to Dawood Corporation Limited (hereinafter called Dawood), a corporation organized and existing under the laws of Pakistan, in consideration of payments made or to be made aggregating Rs 55,600,000 ;
- (3) 1,390,000 shares to International Finance Corporation (hereinafter called IFC) in consideration of payments made or to be made in dollars aggregating the equivalent of Rs 13,900,000 pursuant to a Subscription Agreement of even date herewith between IFC and the Borrower (hereinafter called the IFC Subscription Agreement) ; and
- (4) 1,390,000 shares to private Pakistani investors as the result of the underwriting and distribution of such shares by Dawood, in consideration of payments to the Borrower made or to be made aggregating Rs 13,900,000.

(C) The Borrower has obtained or will obtain the following additional financing for the Project :

- (1) A loan in the amount of Rs 67,600,000 pursuant to an agreement to be entered into between the United States of America, acting through the Agency for International Development, and the Borrower (hereinafter called the AID Agreement) ; and
- (2) Loans in currency of Pakistan from the Government of Pakistan representing a portion (not less than Rs 14,280,000) of customs duties payable on equipment and materials imported for the Project and represented by customs debentures issued by the Borrower.

(D) The Borrower and Hercules have entered into an agreement dated June 27, 1968 for the provision by Hercules to the Borrower of technical, engineering and marketing assistance (hereinafter called the Technical Services Agreement).

(E) The Borrower and Hercules have entered into an agreement dated June 27, 1968 for the provision by Hercules to the Borrower of certain trade secrets, proprietary technical information and know-how (hereinafter called the Know-How Agreement).

(F) The Borrower and Dawood Industries Limited have entered into an agreement dated June 21, 1968 for the provision by Dawood Industries Limited to the Borrower of administrative services (hereinafter called the Managing Agency Agreement).

(G) The Bank, the Borrower, Hercules and Ahmed Dawood, Siddique Dawood, Suleman Dawood, Dawood and Dawood Industries Limited (such Dawood individuals, Dawood and Dawood Industries Limited being hereinafter collectively called the Dawood Group) are to enter into an agreement of even date herewith (hereinafter called the Shareholders Agreement)¹ under which Hercules and the Dawood Group will undertake certain obligations with respect to the Borrower and the Project.

(H) The Borrower and IFC are to enter into an agreement of even date herewith (hereinafter called the IFC Project Funds Agreement) under which IFC will agree under specified circumstances to provide certain additional funds to the Borrower.

(I) The loan which is the subject of this Agreement is to be guaranteed as to payment of principal, interest and other charges by the Islamic Republic of Pakistan (hereinafter called the Guarantor) under the terms of a Guarantee Agreement² of even date herewith and is to be secured as provided in Section 5.12 of this Agreement.

(J) The Bank, on the basis *inter alia* of the foregoing, has agreed to make a loan to the Borrower upon the terms and conditions hereinafter set forth.

NOW THEREFORE, it is hereby agreed as follows :

Article I

LOAN REGULATIONS ; SPECIAL DEFINITIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated February 15, 1961 as amended February 9, 1967,³ with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 4 to this Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations).

¹ Shareholders Agreement (*Dawood Hercules Fertilizer Project*) between the International Bank for Reconstruction and Development and Dawood Hercules Chemicals Limited and Hercules Incorporated and Ahmed Dawood, Siddique Dawood, Suleman Dawood, Dawood Corporation Limited and Dawood Industries Limited, signed at Washington on 10 July 1968. Not published herein.

² See p. 110 of this volume.

³ See p. 116 of this volume.

Section 1.02. Unless the context otherwise requires, the following terms wherever used in this Agreement have the following meanings :

(a) The term "Trust Deed" means the trust deed to be executed by the Borrower in accordance with the provisions of section 5.12 of this Agreement and (except where the context otherwise requires) shall include any deeds or instruments supplemental thereto.

(b) The term "subsidiary" means any company over 50 % of the voting capital of which is owned, directly or indirectly, by the Borrower or which is otherwise effectively controlled by the Borrower.

(c) The term "rupees" and the sign "Rs" mean rupees in currency of the Guarantor.

(d) The term "Sui Northern" means Sui Northern Gas Pipelines Limited, a corporation organized and existing under the laws of Pakistan.

(e) The term "Gas Purchase Agreement" means the agreement between the Borrower and Sui Northern referred to in paragraph (b) of Section 7.01 of this Agreement.

(f) The term "Underwriting Agreement" means the agreement between the Borrower and Dawood referred to in paragraph (c) of Section 7.01 of this Agreement.

Article II

THE LOAN

Section 2.01. The Bank agrees to lend to the Borrower an amount in various currencies equivalent to thirty-two million dollars (\$ 32,000,000).

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, this Agreement and the Loan Regulations; provided, however, that except as the Bank shall otherwise agree :

- (a) until all of the payments described in Recital (B) above for the capital shares of the Borrower shall have been received by the Borrower, the aggregate of (i) the amount withdrawn from the Loan Account and (ii) the amount subject to special commitments entered into by the Bank pursuant to Section 4.02 of the Loan Regulations shall not exceed the equivalent of one hundred ten per cent (110 %) of the amount of such payments which has been paid to the Borrower; and
- (b) until the Borrower shall have complied with the provisions of Section 5.12 of this Agreement, the aggregate of (i) the amount withdrawn from the Loan Account and (ii) the amount subject to special commitments entered into by the Bank pursuant to Section 4.02 of the Loan Regulations shall not exceed the equivalent of six million dollars (\$6,000,000).

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

Section 2.04. The Borrower shall pay interest at the rate of six and one-quarter per cent ($6\frac{1}{4}\%$) 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 commitment outstanding from time to time.

Section 2.06. Interest and other charges shall be payable semi-annually on May 15 and November 15 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 1 to this Agreement.

Article III

USE OF PROCEEDS OF THE LOAN

Section 3.01. The Borrower shall apply the proceeds of the Loan in accordance with the provisions of this Agreement to expenditures on the Project described in Schedule 2 to this Agreement. The specific allocation of the proceeds of the Loan is set forth in Schedule 3 to this Agreement and shall be subject to modification by agreement between the Bank and the Borrower.

Section 3.02. Except as the Bank shall otherwise agree, the goods to be financed out of the proceeds of the Loan shall be procured on the basis of international competitive bidding as set forth in the *Guidelines for Procurement under World Bank Loans and IDA Credits* dated February 1968 published by the Bank and in accordance with such other procedures supplementary thereto as shall be agreed between the Bank and the Borrower.

Section 3.03. Except as the Bank and the Borrower shall otherwise agree, the Borrower shall cause all goods financed out of the proceeds of the Loan to be used exclusively in carrying out the Project.

Article IV

BONDS

Section 4.01. The Borrower shall execute and deliver Bonds representing the principal amount of the Loan of the form, tenor and purport prescribed in the Trust Deed and as provided thereby and in the Loan Regulations.

Section 4.02. The Borrower shall from time to time designate and notify to the Bank an authorized representative or representatives for the purposes of Section 6.12 (a) of the Loan Regulations.

Section 4.03. The Borrower shall not issue any Bonds except as provided herein, in the Loan Regulations, in the Trust Deed or in the Bonds.

Section 4.04. The Bank and the Borrower shall be at liberty to make such arrangements as they may from time to time agree as to procedure for the issue, authentication and delivery of the Bonds and such arrangements may be in addition to or in substitution for any of the provisions of this Agreement or of the Loan Regulations.

Article V

PARTICULAR COVENANTS

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

(b) Except as the Bank shall otherwise agree, the Project shall be constructed by contractors acceptable to the Bank and the Borrower under contracts satisfactory to the Bank and the Borrower.

(c) The Borrower shall furnish or cause to be furnished to the Bank, promptly upon their preparation, the plans, specifications and construction schedules for the Project and any material modifications subsequently made therein, in such detail as the Bank shall from time to time request.

(d) The Borrower shall maintain records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the Borrower; shall enable the Bank's representatives to inspect the Project, the goods, all other properties and equipment of the Borrower and any relevant records and documents; and shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, the goods, and the management, operations and financial condition of the Borrower.

(e) The Borrower shall have its financial statements (balance sheet and related statement of earnings and expenses) audited and certified annually by an independent accountant or accounting firm acceptable to the Bank and shall promptly after their preparation, and not later than four months after the close of the fiscal year to which they apply, transmit to the Bank certified copies of such statements and a signed copy of the accountant's or accounting firm's report.

(f) The Borrower shall, within sixty days after the end of each quarter of each fiscal year, furnish to the Bank copies of the Borrower's balance sheet as at the close of such quarter and of its manufacturing, trading and profit and loss accounts for such quarter in form satisfactory to the Bank and certified by an officer of the Borrower, together with reports on the implementation and progress of the Project and on factors materially affecting or likely materially to affect the Borrower's business.

Section 5.02. (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, the maintenance of the service thereof or the performance by the Borrower of its obligations under the Loan Agreement.

Section 5.03. (a) The Borrower shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank, for insurance against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, the Borrower undertakes to insure the imported goods to be financed out of the proceeds of the Loan against marine, transit and other hazards incident to acquisition, transportation and delivery thereof to the place of use or installation and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower to replace or repair such goods.

Section 5.04. The Borrower shall duly perform its obligations under the Technical Services Agreement, the Know-How Agreement, the Managing Agency Agreement, the Underwriting Agreement and the Gas Purchase Agreement and shall not, without the consent of the Bank, assign, amend, suspend, waive or abrogate, in whole or in part, any of such agreements.

Section 5.05. Except as the Bank shall otherwise agree, the Borrower shall not :

- (a) sell, lease, transfer, or otherwise dispose of any of its properties or assets which shall be required for the efficient carrying on of its business ;
- (b) enter into any transaction with any person, firm or company except in the ordinary course of business, on ordinary commercial terms and on the basis of arm's length arrangements, or establish any exclusive purchasing or sales agency, or enter into any transaction whereby it might pay more than the ordinary commercial price for any purchase or might receive less than the full ex-works commercial price (subject to normal trade discounts) for its products ; or
- (c) enter into (i) any partnership, profit-sharing or royalty agreement or other similar arrangement whereby its income or profits are, or might be, shared with any other person, firm or company or (ii) any management contract or similar arrangement, other than the Managing Agency Agreement, whereby its business or operations are managed by any other person, firm or company.

Section 5.06. (a) The Borrower shall at all times take all action necessary to maintain its corporate existence and right to carry on operations and shall, except as the Bank may otherwise agree, take all action necessary to acquire and to retain such land, interests in land and properties and to acquire, to maintain and to renew such licenses, consents, franchises, or other rights, as may be necessary or useful for the construction and operation of the Project and the conduct of its business.

(b) The Borrower shall carry on its operations and conduct its affairs in accordance with sound business, industrial and financial practices under the supervision of qualified and experienced management and shall operate, maintain, renew and repair its plants, machinery, equipment and property as required in accordance with sound engineering practices.

Section 5.07. Except as the Bank shall otherwise agree, the Borrower shall not :

- (i) amend its Memorandum or Articles of Association ; or
- (ii) create, acquire or have any subsidiaries.

Section 5.08. Except as the Bank shall otherwise agree, the Borrower shall not make expenditures, or commitments for expenditures, for fixed or capital assets (including investments in or loans to other business entities), except :

- (a) Throughout the period of construction of the Project, those required for the carrying out of the Project ;
- (b) After the completion of construction of the Project, (i) those required for repair, maintenance, or replacement of assets and (ii) in any fiscal year other expenditures and commitments to make expenditures not exceeding in the aggregate the equivalent of \$1,000,000 ; and
- (c) Investments in short-term marketable securities solely for the purpose of temporarily employing its idle funds.

Section 5.09. (a) Except as the Bank shall otherwise agree, the Borrower shall not incur, assume, guarantee or permit to exist any indebtedness except :

- (i) the Loan, the Bonds, the indebtedness referred to in Recital (C) of this Agreement, and loans made pursuant to Section 4 of the Shareholders Agreement or pursuant to paragraph 4 of the IFC Project Funds Agreement ;
- (ii) short-term debt incurred for money borrowed in the ordinary course of business, the amount of such short-term debt at any time outstanding not to exceed an amount equal to 75 % of the aggregate value of the trade accounts receivable and the inventories (valued at the lower of cost or market) of finished goods, work in process and materials of the Borrower ; and

- (iii) debt incurred in the ordinary course of business or in the ordinary course of the completion of the Project other than for money borrowed.
- (b) For the purposes of this Section :
 - (i) Any credit from a supplier of capital goods, installment purchase, or other similar arrangement shall be deemed to be an indebtedness for money borrowed and shall not be deemed to be permitted by clause (iii) of paragraph (a) of this Section ; and
 - (ii) the term “ short-term debt ” means debt payable on demand or maturing by its terms within 12 months after the date on which it is originally incurred but shall not include loans made pursuant to Section 4 of the Shareholders Agreement or pursuant to paragraph 4 of the IFC Project Funds Agreement.
- (c) Except as the Bank shall otherwise agree, the Borrower shall not repay in advance of maturity any of the indebtedness referred to in Recital (C) of this Agreement.

Section 5.10. (a) Except as the Bank shall otherwise agree :

- (i) The Borrower shall not declare any dividend or make any other distribution with respect to its capital shares except out of its net earnings for the fiscal year immediately preceding such declaration ;
- (ii) The Borrower shall not pay any dividend or make any other distribution with respect to its capital shares (other than dividends or distributions payable solely in such capital shares) or purchase, redeem or otherwise acquire, directly or indirectly, for any consideration, any of such capital shares if, after giving effect to such action, the quick assets of the Borrower would be less than the current liabilities of the Borrower ; and
- (iii) The Borrower shall not pay any dividend or make any other distribution with respect to its capital shares prior to November 15, 1972.

(b) For the purposes of this Section :

- (i) The term “ quick assets ” means cash, securities readily convertible into cash and trade receivables realizable within one year.
- (ii) The term “ current liabilities ” means liabilities due and payable and all other liabilities which would be due and payable, or could be called for payment, within one year including the portion of long-term indebtedness falling due within one year.

Section 5.11. The Borrower shall exercise its rights under the terms of the Shareholders Agreement and the IFC Project Funds Agreement so as to ensure the provision to the Borrower of the funds specified in Sections 2 and 3 of the Shareholders Agreement and in paragraphs 2 and 3 of the IFC Project Funds Agreement.

Section 5.12. (a) The Borrower shall execute and deliver, shall cause all other necessary parties to execute and deliver, and shall maintain in effect, a trust deed and supplemental deeds and instruments, in form and substance satisfactory

to the Bank and to a trustee acceptable to the Bank, as may be required to constitute by way of security for the principal of, interest on, premium (if any) on prepayment of, and other charges on, the Loan and the Bonds (which shall rank *pari passu inter se* in respect of such security) :

- (i) a first specific mortgage upon all the immovable properties, and all machinery, plant, equipment, buildings, vehicles, aircraft, appliances and apparatus now owned or hereafter acquired by the Borrower, together with all grants, easements, licenses, wayleaves, franchises, concessions, rights, liberties, powers and privileges now held or hereafter acquired by the Borrower ;
- (ii) an assignment of the Gas Purchase Agreement ; and
- (iii) without prejudice to the foregoing, a first floating charge upon all the Borrower's undertaking and assets (including all uncalled capital) now owned or hereafter acquired ;

such mortgage, assignment and charge to rank in point of security prior to any other mortgage, charge or lien upon, and to any pledge or hypothecation of, any of the properties or assets of the Borrower, now existing or hereafter created ; provided, however, that :

- (A) the Borrower may create as security for the loan made pursuant to the AID Agreement a mortgage, charge, lien or other form of security on its property, assets or undertaking ranking *pari passu* with, but not prior to, the mortgage, assignment and charge constituted by the Trust Deed ; and
- (B) the Trust Deed may empower the Borrower to create liens or charges on the trade accounts receivable and the inventories of the Borrower ranking in priority to the floating charge to be created under or pursuant to the Trust Deed and securing any indebtedness to commercial banks incurred in the ordinary course of business and maturing on demand or not more than one year after the date upon which it is originally incurred, the aggregate amount of such indebtedness not to exceed the equivalent of \$5,000,000 in principal amount at any one time outstanding.

(b) The Borrower shall obtain all necessary consents for the valid execution and delivery of the Trust Deed and shall duly register, or cause to be duly registered the Trust Deed, together with such other documents as may be necessary or proper, in order to render the same fully effective in accordance with its terms.

(c) The Borrower shall, upon the completion of all action required to be taken pursuant to the provisions of the foregoing sub-paragraphs of this Section, furnish evidence thereof satisfactory to the Bank. As part of such evidence there shall be furnished an opinion or opinions satisfactory to the Bank of counsel acceptable to the Bank showing that the requirements of the foregoing sub-paragraphs of this Section have been duly complied with.

(d) The Bank and the Borrower may from time to time agree upon modifications of the foregoing requirements of this Section.

Section 5.13. The Borrower undertakes that, except as the Bank shall otherwise agree, no mortgage, hypothecation, lien, pledge or charge which would rank prior to or *pari passu* with the mortgage or charge created or to be created by or pursuant to the Trust Deed shall, after the date of this Agreement, be created or maintained on any of its properties or assets as security for any debt; provided, however, that the Borrower may create as security for the loan made pursuant to the AID Agreement a mortgage, charge, lien or other form of security on its property, assets or undertaking ranking *pari passu* with, but not prior to, the mortgage, assignment and charge constituted or to be constituted by the Trust Deed.

Section 5.14. The Borrower shall not consent to any action taken at any meeting of bondholders or by written instrument pursuant to the provisions of the Trust Deed which would change the terms of the Bonds or adversely affect the holders thereof unless the Bank shall have expressed in writing its approval of such action or such consent.

Section 5.15. The Borrower shall pay or cause to be paid all taxes, if any, 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 of the Loan Agreement, the Guarantee Agreement, the Shareholders Agreement, the Trust Deed 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 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 5.16. The Borrower shall pay or cause to be paid all taxes, 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 the Loan Agreement, the Guarantee Agreement, the Shareholders Agreement, the Trust Deed, or the Bonds.

Article VI

REMEDIES OF THE BANK

Section 6.01. (i) If any event specified in paragraph (a), 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 a default shall occur in the payment of principal or interest or any other payment required under any other loan agreement between the Bank and the Borrower or under any bond delivered pursuant thereto or under any credit agreement between the Association and the Borrower and such default shall continue for a period of thirty days, or (iii) if a default shall occur in the payment

of principal or interest or any other payment required under any loan agreement or under any guarantee agreement between the Guarantor and the Bank or under any bond delivered pursuant to any such agreement or under any credit agreement between the Association and the Guarantor under circumstances which would make it unlikely that the Guarantor would meet its obligations under the Guarantee Agreement and such default shall continue for a period of thirty days, or (iv) if any event specified in paragraph (a) or paragraph (b) of Section 6.02 of this Agreement shall occur, or (v) if any event specified in paragraph (c) of Section 5.02 of the Loan Regulations or in paragraph (c), paragraph (d), paragraph (e), paragraph (f) or paragraph (g) of Section 6.02 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, then at any subsequent time during the continuance of any such event or default, 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.

Section 6.02. The following events are specified for the purposes of paragraph (l) of Section 5.02 of the Loan Regulations :

- (a) Any other loan or credit to the Borrower shall have become due and payable pursuant to the terms thereof prior to its stated maturity.
- (b) The security constituted by the Trust Deed shall have become enforceable.
- (c) A default shall have occurred in the performance of any obligation of either Hercules or the Dawood Group, or any of them, under the Shareholders Agreement.
- (d) A default shall have occurred in the performance of any obligation of Dawood under the Underwriting Agreement.
- (e) The Technical Services Agreement, the Know-How Agreement, the Managing Agency Agreement, the Underwriting Agreement, the Shareholders Agreement, the IFC Project Funds Agreement, or the Gas Purchase Agreement shall have been in any material respect terminated, amended, suspended, waived or assigned without the prior approval of the Bank.
- (f) The right of the Borrower to disbursements under the IFC Subscription Agreement shall have been suspended or cancelled pursuant to Sections 4.03 or 4.05 thereof.
- (g) Any representation or warranty made by the Borrower in connection with the execution of this Agreement, the Bonds, or the Trust Deed, or in connection with any application for withdrawal from the Loan Account, shall have been incorrect in any material respect and continues to be incorrect.
- (h) The Bank shall have suspended or cancelled the right of Sui Northern to make withdrawals from the loan account under any loan agreement between the Bank and Sui Northern providing for a loan to Sui Northern to expand its natural gas transmission capacity in order to, *inter alia*, enable Sui Northern to carry out its obligations under the Gas Purchase Agreement, unless the Borrower establishes to the satisfaction of the Bank that it is able to obtain an adequate supply of gas notwithstanding such suspension or cancellation.

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 (*d*) of the Loan Regulations :

- (a) Hercules, Dawood and IFC, respectively, shall have paid to the Borrower not less than 5 % of the payments referred to in paragraphs (1), (2) and (3) of Recital (B) of this Agreement.
- (b) The Borrower and Sui Northern shall have entered into an agreement in form and substance satisfactory to the Bank for the supply of natural gas to the Borrower for the construction and operation of the Project.
- (c) The Borrower and Dawood shall have entered into an agreement in form and substance satisfactory to the Bank for the underwriting and distribution of the capital shares of the Borrower referred to in Recital (B) (4) of this Agreement, and a financial institution acceptable to the Bank shall have furnished a guarantee in form and substance satisfactory to the Bank of the obligations of Dawood under such agreement.
- (d) The AID Agreement shall have been entered into in form and substance satisfactory to the Bank and shall have come into effect.
- (e) The Borrower shall have, to the satisfaction of the Bank, validly acquired all such lands and properties and all such rights of way, easements, licenses, consents, franchises, or other rights or privileges as may be necessary or requisite to enable it to construct the Project and operate its business, or shall have made (to the like satisfaction) effective arrangements for the acquisition thereof ; and the Borrower shall have supplied to the Bank certificates, satisfactory to the Bank, setting forth particulars of the foregoing.
- (f) All necessary acts, consents and approvals to be performed or given by the Guarantor, its political subdivisions or agencies or by any agency of any political subdivision, or otherwise to be performed or given in order to authorize the carrying out of the Project and to enable the Borrower to perform all of the covenants, agreements and obligations set forth or referred to in this Loan Agreement, together with the necessary powers and rights in connection therewith, shall have been performed or given.
- (g) All necessary acts, consents and approvals to be performed or given by the United States of America, or by any department or agency thereof, in order to enable Hercules to perform all of its obligations under the Shareholders Agreement, the Technical Services Agreement, the Know-How Agreement, and the subscription by Hercules to 5,560,000 capital shares of the Borrower shall have been performed or given.

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

- (a) That the Borrower is duly organized and existing under the laws of Pakistan and has full power to own the properties and to carry on the business which it owns and carries on and proposes to own and carry on for the purpose of the Project ; that all acts, franchises, concessions, consents and approvals necessary therefor have been duly and validly performed or given ; and that with such exceptions as the Bank may have approved, all easements, rights and privileges necessary therefor have been duly obtained.
- (b) That the following agreements are valid and binding obligations of the respective parties thereto in accordance with their terms :
- (1) The Technical Services Agreement, the Know-How Agreement and the Managing Agency Agreement ;
 - (2) The Shareholders Agreement ;
 - (3) The AID Agreement ;
 - (4) The Underwriting Agreement ;
 - (5) The IFC Subscription Agreement ;
 - (6) The Gas Purchase Agreement ; and
 - (7) The IFC Project Funds Agreement.
- (c) That all acts, consents, and approvals referred to in paragraph (f) of Section 7.01 together with all necessary powers and rights in connection therewith, have been duly and validly performed or given and that no other such acts, consents or approvals are required in order to authorize the carrying out of the Project and to enable the Borrower to perform all the covenants, agreements and obligations of the Borrower in the Loan Agreement contained.
- (d) That all acts, consents and approvals referred to in paragraph (g) of Section 7.01 have been duly and validly performed or given, and that no other acts, consents or approvals on the part of the United States of America are required in order to enable Hercules to perform all of its obligations under the Shareholders Agreement, the Technical Services Agreement, the Know-How Agreement, and the subscription by Hercules to 5,560,000 capital shares of the Borrower.

Section 7.03. If this Agreement shall not have come into force and effect by November 1, 1968, this Agreement and all obligations of the parties hereunder shall terminate, unless the Bank, after consideration of the reasons for the delay, establishes a later date for purposes of this Section. The Bank shall promptly notify the Borrower and the Guarantor of such later date.

Article VIII

MISCELLANEOUS

Section 8.01. The Closing Date shall be June 30, 1972, or such later date as may be agreed by the Bank.

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

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.

For the Borrower :

Dawood Hercules Chemicals Limited
Dawood Centre
Karachi
West Pakistan

Cable address :

Dawherc
Karachi

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 to be 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 J. Burke KNAPP
Vice President

Dawood Hercules Chemicals Limited :

By Ahmed DAWOOD
Director

By Harvey J. TAUFEN
Director

SCHEDULE 1

AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>
November 15, 1972.....	1,455,000	May 15, 1978	1,455,000
May 15, 1973	1,455,000	November 15, 1978.....	1,455,000
November 15, 1973.....	1,455,000	May 15, 1979	1,455,000
May 15, 1974	1,455,000	November 15, 1979.....	1,455,000
November 15, 1974.....	1,455,000	May 15, 1980	1,455,000
May 15, 1975	1,455,000	November 15, 1980.....	1,455,000
November 15, 1975.....	1,455,000	May 15, 1981	1,455,000
May 15, 1976	1,455,000	November 15, 1981.....	1,455,000
November 15, 1976.....	1,455,000	May 15, 1982	1,455,000
May 15, 1977	1,455,000	November 15, 1982.....	1,455,000
November 15, 1977.....	1,455,000	May 15, 1983	1,455,000

* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.03), the figures in this column 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 three years before maturity	$\frac{1}{2}$ %
More than three years but not more than six years before maturity	$2\frac{1}{4}$ %
More than six years but not more than eleven years before maturity	$3\frac{3}{4}$ %
More than eleven years but not more than thirteen years before maturity	5 %
More than thirteen years before maturity	$6\frac{1}{4}$ %

SCHEDULE 2

DESCRIPTION OF PROJECT

The Project consists of the construction and start-up of a fertilizer plant at Chichoki Mallian, Pakistan to manufacture approximately 200,000 metric tons of ammonia into approximately 345,000 metric tons of urea annually. The plant's facilities will employ the latest technology and will include an ammonia unit with a daily capacity of about 600 metric tons, a urea unit with a daily capacity of about

1100 metric tons, bagging, storage, administration and other buildings, a power generating station, and a housing colony. The Project is expected to be completed by December 31, 1971.

SCHEDULE 3

ALLOCATION OF THE PROCEEDS OF THE LOAN

<i>Category</i>	<i>Amount (Expressed in dollar Equivalent)</i>
1. Ammonia Plant	\$5,755,000
2. Urea Plant	5,160,000
3. Ammonia Storage	210,000
4. Urea Storage and Shipping	700,000
5. Utility Systems	2,524,000
6. Utility Distribution	250,000
7. Miscellaneous Tools & Supporting Facilities	1,565,000
8. Spare Parts	2,140,000
9. Catalyst and Chemicals	806,000
10. Technical Service Facilities	290,000
11. Bulk Supplies	3,800,000
12. Design and Process Engineering	5,200,000
13. Unallocated	3,600,000
	<u>\$32,000,000</u>

SCHEDULE 4

MODIFICATIONS OF LOAN REGULATIONS No. 4

For the purposes of this Agreement the provisions of Loan Regulations No. 4 of the Bank, dated February 15, 1961 as amended February 9, 1967, shall be deemed to be modified as follows :

(1) Clause (a) of the second sentence of Section 4.01 is amended to read as follows : “ (a) expenditures prior to the date of the Loan Agreement or ”.

(2) Section 6.01 is deleted.

(3) Section 6.07 is amended to read as follows :

“ SECTION 6.07. *Form of Bonds.* (a) The Bonds shall be fully registered bonds without coupons (hereinafter sometimes called registered Bonds) or bearer bonds with coupons for semi-annual interest attached (hereinafter sometimes called coupon Bonds). Bonds delivered to the Bank shall be regis-

tered Bonds or coupon Bonds in such temporary or definitive form (authorized by the Trust Deed) as the Bank shall request. Registered Bonds and coupon Bonds payable in dollars and the coupons attached thereto shall be substantially in the forms respectively set forth in the Trust Deed. Bonds payable in any currency other than dollars shall be substantially in the forms respectively set forth in the Trust Deed, as the case may be, except that they shall (i) provide for payment of principal, interest and premium on redemption, if any, in such other currency, (ii) provide for such place of payment as the Bank shall specify, and (iii) contain such other modifications as the Bank shall reasonably request in order to conform to the laws or to the financial usage of the place where they are payable.

(b) Notwithstanding any other provision of the Loan Agreement or these Regulations, if the Bank shall so require, the Borrower shall execute and deliver bonds pursuant to Section 6.03 before the execution and delivery of the Trust Deed. The provisions of Section 6.07 of Loan Regulations No. 4 of the Bank, dated February 15, 1961 as amended February 9, 1967, but before modification by sub-paragraph (a) of this Section, shall apply to the form of any such bonds, with appropriate changes therein, satisfactory to the Bank, to provide for the exchange thereof, free of cost to the Bank, for Bonds of the same respective amounts, currencies and maturities issued under the Trust Deed, the Loan Agreement and these Regulations. All other provisions of the Loan Agreement, the Guarantee Agreement and these Regulations relating or referring to Bonds shall apply *mutatis mutandis* to such bonds except where such application would be clearly inconsistent with the requirements of this subparagraph.

(c) All Bonds shall have the guarantee of the Guarantor endorsed thereon substantially in the form set forth in Schedule 3 to these Regulations. ”

(4) The following sentence is added at the beginning of Section 6.09, namely :

“ Except as the Bank and the Borrower shall otherwise agree, Bonds shall be dated as hereinafter in this Section provided. ”

(5) Section 6.18 is deleted.

(6) In Section 7.01, after the words “ Guarantee Agreement ” where those words occur, the words “ the Trust Deed ” are added.

(7) By the deletion of the second sentence of Section 7.02 and the substitution therefor of the following sentence :

“ Such obligations shall not be subject to any prior notice to, demand upon or action against the Borrower or to any prior notice to or demand upon the Guarantor with regard to any default by the Borrower, and shall not be

impaired by any of the following : any extension of time, forbearance or concession given to the Borrower ; any assertion of, or failure to assert, or delay in asserting, any right, power or remedy against the Borrower or in respect of any security for the Loan ; any modification or amplification of the provisions of the Loan Agreement contemplated by the terms thereof ; any modification or amplification of any other document related to the Loan or related to any security therefor ; any failure of the Borrower to comply with any requirement of any law, regulation or order of the Guarantor or of any political subdivision or agency of the Guarantor.”

(8) By the deletion of subparagraph (j) of Section 7.04 and the substitution therefor of the following :

“(j) The provisions for arbitration set forth in this Section shall be in lieu of any other procedure for the determination of controversies between the parties to the Loan Agreement and Guarantee Agreement or any claim by any such party against any other such party arising thereunder ; provided, however, that nothing herein shall be deemed to preclude any of the said parties from exercising, or instituting any legal or equitable action to enforce, any right or claim arising out of or pursuant to the Trust Deed or the Bonds, and submission to arbitration hereunder shall not be deemed to be a condition precedent or in any way to prejudice such exercise or other enforcement of any such right or claim.”

(9) Paragraph 6 of Section 10.01 is amended to read as follows : —

“6. The term ‘Borrower’ means the party to the Loan Agreement to which the Loan is made ; and the term ‘Guarantor’ means the Islamic Republic of Pakistan, acting by its President.”

(10) By the deletion of paragraph 9 of Section 10.01 and the substitution therefor of the following new paragraph, namely :

“9. The term ‘Bonds’ means bonds issued and authenticated pursuant to the Trust Deed (except as otherwise provided in Section 6.07(b), with the guarantee of the Guarantor endorsed thereon as provided in the Loan Agreement and the Guarantee Agreement.

(11) The following paragraph is added to Section 10.01 :

“19. The term ‘Trust Deed’ shall have the meaning as defined in the Loan Agreement.”