

No. 12069

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

Guarantee Agreement—*Upper Ramu Hydroelectric Development Project* (with General Conditions Applicable to Loan and Guarantee Agreements). Signed at Washington on 26 May 1971

Authentic text: English.

Registered by the International Bank for Reconstruction and Development on 17 October 1972.

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

Contrat de garantie — *Projet relatif à l'équipement hydroélectrique du cours supérieur de Ramu* (avec Conditions générales applicables aux contrats d'emprunt et de garantie). Signé à Washington le 26 mai 1971

Texte authentique: anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 17 octobre 1972.

GUARANTEE AGREEMENT¹

AGREEMENT, dated May 26, 1971, between the COMMONWEALTH OF AUSTRALIA (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS (A) by the Loan Agreement of even date herewith between the Bank and the Administration of the Territory of Papua and New Guinea (hereinafter called the Borrower) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to twenty-three million two hundred thousand dollars (\$23,200,000), on the terms and conditions set forth in the Loan Agreement and in a project agreement of even date herewith² between the Bank and the Papua and New Guinea Electricity Commission (hereinafter called ELCOM), but only on condition that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided; and

(B) 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. GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank dated January 31, 1969,³ 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 the Loan Agreement (said General Conditions Applicable to Loan and Guarantee Agreements, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in Section 1.02 of the Loan Agreement have the respective meanings therein set forth.

Article II. GUARANTEE; BONDS; PROVISION OF FUNDS

Section 2.01. Without limitation or restriction upon any of its other obligations under the Guarantee Agreement, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and interest and other charges on, the Loan and

¹ Came into force on 30 July 1971, upon notification by the Bank to the Government of Australia.

² The said Agreements entered into force on 30 July 1971. As they do not constitute international agreements or part of the present Agreement, they are not reproduced herein. However, they were published by the Bank as documents LN 737 PNG, certified true copies of which were transmitted to the Secretariat together with the documentation submitted for registration of the present Guarantee Agreement.

³ See p. 17 of this volume.

the Bonds, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds prior to their maturity.

Section 2.02. The Guarantor shall endorse, in accordance with the provisions of the General Conditions, its guarantee on the Bonds to be executed and delivered by the Borrower. The Treasurer of the Guarantor and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Guarantor for the purposes of Section 8.10 of the General Conditions.

Section 2.03. Without limitation or restriction upon the provisions of Section 2.01 of this Agreement, the Guarantor specifically undertakes, whenever there is reasonable cause to believe that the funds available to ELCOM will be inadequate to meet the estimated expenditures required for the carrying out of the Project, to make arrangements, satisfactory to the Bank, promptly to provide ELCOM or cause the Borrower to provide ELCOM with such funds as are needed to meet such expenditures.

Article III. OTHER COVENANTS

Section 3.01. (a) It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan or the Bonds by way of a lien on public assets.

(b) To that end the Guarantor (i) represents that at the date of this Agreement no lien exists on any public assets as security for any external debt except as otherwise disclosed in writing by the Guarantor to the Bank, and (ii) undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor or any agency of the Guarantor as security for any external debt, such lien shall 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 shall be made to that effect; and, within the limits of its constitutional powers, the Guarantor will make the foregoing undertaking effective with respect to liens on assets of the States and Territories of the Guarantor and their agencies (including local governing authorities). The Guarantor shall promptly inform the Bank of the creation of any such lien.

(c) The foregoing representation and undertaking shall not apply to: (i) any lien created on any property at the time of purchase thereof solely as security for the payment of the purchase price of such property; or (ii) any lien created by the Reserve Bank of Australia or the Commonwealth Trading Bank of Australia on any of their assets in the ordinary course of their banking business to secure any indebtedness maturing not more than one year after its date.

Section 3.02. The Guarantor covenants that it will not take any action which would prevent or interfere with the performance by the Borrower of its obligations contained in the Loan Agreement or by ELCOM of its obligations contained in the Project Agreement.

Article IV. CONSULTATION AND INFORMATION

Section 4.01. The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end the Guarantor

and the Bank shall from time to time, at the request of either party: (i) exchange views through their representatives with regard to the performance of their respective obligations under the Guarantee Agreement and other matters relating to the purposes of the Loan; and (ii) 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, including the balance of payments of the Guarantor, and the external debt of the Guarantor, of any of its political subdivisions and of any agency of the Guarantor or of any such political subdivision.

Section 4.02. (a) 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.

(b) The Guarantor shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Guarantor and, insofar as it is within its powers, those of the Borrower, for purposes related to the Loan.

Article V. TAXES AND RESTRICTIONS

Section 5.01. 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 imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the foregoing 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 or of its territories.

Section 5.02. The Guarantee Agreement, the Loan Agreement, any instrument made pursuant to Section 3.01 of this Agreement, the Project Agreement, the Subsidiary Loan Agreement 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 and the Guarantor shall, in respect of any instrument made pursuant to such Section 3.01, pay all such taxes, if any, imposed under the laws of any other country or countries.

Section 5.03. The payment of the principal of, and interest and other charges on, the Loan and the Bonds shall be free from all restrictions, regulations, controls or moratoria of any nature imposed under the laws of the Guarantor or laws in effect in its territories.

Article VI. REPRESENTATIVE OF THE GUARANTOR; ADDRESSES

Section 6.01. The Treasurer of the Guarantor is designated as representative of the Guarantor for the purposes of Section 10.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Guarantor :

The Treasurer
The Commonwealth of Australia
Canberra, A.C.T. 2600
Australia

Cable address :
Comtreasury
Canberra, Australia

For the Bank :

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

Cable address :
Intbafrad
Washington, D.C.

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

The Commonwealth of Australia :

By JAMES PLIMSOLL
Authorized Representative

International Bank for Reconstruction and Development :

By J. BURKE KNAPP
Vice President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

GENERAL CONDITIONS, DATED 31 JANUARY 1969

GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS

[Not published herein. See United Nations, Treaty Series, vol. 691, p. 300.]
