

No. 6012

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

Guarantee Agreement—*Second Calcutta Port Project* (with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and the Commissioners for the Port of Calcutta). Signed at Washington, on 17 August 1961

Official text: English.

Registered by the International Bank for Reconstruction and Development on 20 December 1961.

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

Contrat de garantie — *Deuxième projet relatif au port de Calcutta* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et les Commissaires du port de Calcutta). Signé à Washington, le 17 août 1961

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 20 décembre 1961.

No. 6012. GUARANTEE AGREEMENT¹ (*SECOND CALCUTTA PORT PROJECT*) BETWEEN INDIA AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 17 AUGUST 1961

AGREEMENT, dated August 17, 1961, 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 the Commissioners for the Port of Calcutta (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 twenty-one million dollars (\$21,000,000), 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; and

WHEREAS the Government of India has approved the terms and conditions of such loan as hereinafter and in the Loan Agreement set forth and, in consideration of the Bank's entering into the Loan Agreement with the Borrower, the Guarantor has agreed to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided;

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, 1961,² 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.

¹ Came into force on 27 September 1961, upon notification by the Bank to the Government of India.

² See p. 328 of this volume.

³ See p. 342 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, 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 : (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (ii) 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 (iii) 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.

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.

Section 5.03. For the purposes of the guarantee agreement (Calcutta Port Project), dated June 25, 1958¹ between the Guarantor and the Bank, paragraph (c) of Section 5.02 of Loan Regulations No. 4 of the Bank, dated June 15, 1956,² is hereby amended to read as follows :

“(c) A default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower or the Guarantor under the Loan Agreement, the Guarantee Agreement or the Bonds or under the loan agreement dated August 17, 1961, the guarantee agreement of even date therewith, or the bonds therein provided for.”;

and the term “ Loan Regulations ” as used for the purposes of said guarantee agreement shall mean Loan Regulations No. 4 of the Bank, dated June 15, 1956, as hereby amended.

¹ United Nations, *Treaty Series*, Vol. 323, p. 131.

² United Nations, *Treaty Series*, Vol. 260, p. 376.