No. 7059

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT and NEW ZEALAND

Loan Agreement—*Harbor Projects* (with annexed Loan Regulations No. 3). Signed at Washington, on 12 November 1963

Official text: English.

Registered by the International Bank for Reconstruction and Development on 9 January 1964.

BANQUE INTERNATIONALE POUR LA RECONSTRUCTION ET LE DÉVELOPPEMENT et NOUVELLE ZÉLANDE

Contrat d'emprunt — *Projets de constructions portuaires* (avec, en annexe, le Règlement n° 3 sur les emprunts). Signé à Washington, le 12 novembre 1963

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 9 janvier 1964.

No. 7059. LOAN AGREEMENT[1] (*HARBOR PROJECTS*) BETWEEN NEW ZEALAND AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 12 NOVEMBER 1963

AGREEMENT, dated November 12, 1963, between NEW ZEALAND (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) which Agreement, for the purposes of the New Zealand Loans Act 1953, is recognized by the parties hereto to be a security.

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. 3 of the Bank dated February 15, 1961[2] subject, however, to the modifications thereof set forth in Section 1.02 of this Agreement (said Loan Regulations No. 3 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. (*a*) The second sentence of Section 4.01 of the Loan Regulations is amended to read as follows :

> "Except as shall be otherwise agreed between the Bank and the Borrower, no withdrawals shall be made on account of (*a*) expenditures prior to June 1, 1962 or (*b*) expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in (including services supplied from) such territories."

(*b*) Paragraph 10 of Section 10.01 of the Loan Regulations is amended to read as follows :

> "The terms "Projects" and "Project" mean the Projects described in Schedule 2[2] to the Loan Agreement, or any one of them, as the context may require."

[1] Came into force on 20 November 1963, upon notification by the Bank to the Government of New Zealand.

[2] See p. 250 of this volume.

Section 1.03. The following terms shall have the following meanings :

(*a*) "Beneficiaries" means the Auckland, Lyttelton, Napier, Timaru and Whangarei Harbour Boards.

(*b*) "Subsidiary Loan Agreements" means the agreements, referred to in Section 5.07 of this Agreement, between the Borrower and each of the Beneficiaries.

(*c*) "Subsidiary Loans" means the loans provided for in the respective Subsidiary Loan Agreements.

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 seven million eight hundred thousand dollars ($7,800,000).

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 Agreement ; provided, however, that no withdrawals may be made for any Project until the requirements of Section 5.07 of this Agreement with respect to such Project have been carried out.

Section 2.03. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent (¾ 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 five and one-half per cent (5½%) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

Section 2.05. Except as the Borrower and the Bank 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 (½ of 1%) per annum on the principal amount of any such special commitments outstanding from time to time.

Section 2.06. Interest and other charges shall be payable semiannually on February 15 and August 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[1] to this Agreement.

[1] See p. 248 of this volume.

Article III

USE OF PROCEEDS OF LOAN ; CURRENCIES

Section 3.01. The Borrower shall cause the proceeds of the Loan to be applied exclusively to financing the cost of goods required to carry out the Project described in Schedule 2 to this Agreement. The specific goods to be financed out of the proceeds of the Loan and the methods and procedures for procurement of such goods shall be determined by agreement between the Borrower and the Bank, 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 exclusively in the carrying out of the Projects.

Section 3.03. Pursuant to the second sentence of Section 3.02 of the Loan Regulations, the Borrower and the Bank agree that any withdrawals on account of expenditures in the currency of the Borrower or for goods produced in (including services supplied from) the territories of the Borrower shall be made in dollars or in such other currency or currencies as the Bank shall reasonably select.

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 Minister of Finance of the Borrower and such person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 6.12 of the Loan Regulations.

Article V

PARTICULAR COVENANTS

Section 5.01. (*a*) The Borrower shall cause the Projects to be carried out with due diligence and efficiency and in conformity with sound engineering and financial practices.

(*b*) In furtherance of (*a*) hereof, the Borrower shall, whenever there is reasonable cause to believe that the funds available to any of the Beneficiaries will be inadequate to meet the estimated expenditures required for carrying out the Project to be carried out by such Beneficiary, make reasonable arrangements promptly to provide such Beneficiary, or cause such Beneficiary to be provided with, such funds as are needed to meet such expenditures.

(*c*) The Borrower shall cause the Beneficiaries to operate the ports in accordance with sound port practices with capable management and maintain their financial position in accordance with sound business practices.

(*d*) The Borrower shall : (i) maintain or cause to be maintained records adequate to show the application of the proceeds of the Subsidiary Loans, to disclose the use of the goods in the Projects, to record the progress of the Projects (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the Beneficiaries ; (ii) enable the Bank's representatives to inspect the Projects, the goods, the properties of the Beneficiaries and any relevant records and documents ; and (iii) furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Subsidiary Loans, the Projects, the goods and the operations and financial condition of the Beneficiaries.

Section 5.02. The Borrower and the Bank shall co-operate fully to assure that the purposes of the Loan will be accomplished. To that end :

(*a*) the Borrower and the Bank shall from time to time, at the request of either party, exchange views through their representatives with regard to the progress of the Projects, the performance by the Borrower of its obligations under the Loan Agreement and by the Beneficiaries of their obligations under the Subsidiary Loan Agreements, the administration, operations and financial condition of the Beneficiaries, financial and economic conditions in the territories of the Borrower and the international balance of payments position of the Borrower ;

(*b*) 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 or the performance by the Beneficiaries of their respective obligations under the Subsidiary Loan Agreements ; and

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

Section 5.03. It is mutual intention of the Borrower 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 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 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,