

No. 9639

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
and
REPUBLIC OF CHINA**

**Guarantee Agreement—*Tachien Power Project* (with related letter, annexed Loan Regulations No. 4, as amended, and Loan Agreement between the Bank and the Taiwan Power Company).
Signed at Washington on 2 December 1968**

Authentic text: English.

*Registered by the International Bank for Reconstruction and Development on
18 June 1969.*

**BANQUE INTERNATIONALE POUR
LA RECONSTRUCTION ET LE DÉVELOPPEMENT
et
RÉPUBLIQUE DE CHINE**

Contrat de garantie — *Projet relatif à l'énergie électrique de Tachien* (avec lettre y relative et, 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 Compagnie d'énergie électrique de Taïwan). Signé à Washington le 2 décembre 1968

Texte authentique: anglais.

*Enregistré par la Banque internationale pour la reconstruction et le développement
le 18 juin 1969.*

GUARANTEE AGREEMENT¹

AGREEMENT, dated December 2, 1968, between REPUBLIC OF CHINA (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 Taiwan Power Company (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 fifty million dollars (\$50,000,000), 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 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 Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated February 15, 1961 as amended February 9, 1967³ (said Loan Regulations No. 4 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, unless the context shall otherwise require, the term defined in Section 1.02 of the Loan Agreement shall have the same meaning as therein set forth.

¹ Came into force on 29 May 1969, upon notification by the Bank to the Government of the Republic of China.

² See p. 312 of this volume.

³ See p. 312 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 and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds and the punctual performance of all 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 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; or (ii) 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 Central Bank of China 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 will be accomplished. To that end, each of them shall furnish to the other all such information as shall be reasonably requested 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 administration, operations and financial condition of the Borrower and other 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 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 3.04. This Agreement, the 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.

Section 3.05. (a) Except as the Bank shall otherwise agree, prior to the termination of the Loan Agreement in accordance with its terms, the Guarantor shall cause the Bank of Communications not to:

(i) exercise the right to effect any lien given by the Borrower to the Bank of Communications under the CIECD loan agreements;

(ii) transfer or assign the loans and any right, including the lien, provided for under such CIECD loan agreements; and

- (iii) amend any provision relating to the lien provided for under such CIECD loan agreements.

(b) If the circumstances would justify the Bank of Communications to effect the lien referred to in subsection (a) hereof and if the Bank so agrees, the Guarantor shall cause the Bank of Communications to:

- (i) share such lien *pari passu* by the Bank and the Bank of Communications to secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and the outstanding principal of, and interest on, the loans provided for under the CIECD loan agreements; and
- (ii) make express provision to that effect in the registration or in any other legal documents required to effect the lien.

Section 3.06. The Guarantor shall take all such action as will be necessary to enable the Borrower to obtain, and shall not take any action which would prevent the Borrower from obtaining, from time to time, such adjustment in the Borrower's tariffs as provided in Section 5.11 of the Loan 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. The Minister of Finance of the Guarantor 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:

For the Guarantor:

Ministry of Finance
Taipei
Taiwan, China