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Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, with securities backed by the full faith and credit of the United States or has demonstrated to the satisfaction of the Secretary of the Treasury that the Borrower is unable to so collateralize the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, then the Borrower may calculate the Interest Rate Difference using whatever collateralization assumptions the Borrower elects;

(D) If the Borrower delivers evidence to the Secretary of the Treasury respecting the Interest Rate Difference, which evidence assumes either that the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, will not be collateralized at all or that the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, will be collateralized, but not by securities backed by the full faith and credit of the United States, then the Borrower must also deliver to the Secretary of the Treasury the written agreement of the Borrower, which agreement shall be in form and substance satisfactory to the Secretary of the Treasury, that the Borrower will not collateralize the Unguaranteed Loan Amount or the respective Unguaranteed Loan Portion Amount or the respective Unguaranteed-Amount Equivalent, as the case may be, at any time during the term of the Private Loan in any way different from the assumptions used in calculating the Interest Rate Difference; and

(E) The Borrower must deliver to the Secretary of the Treasury the evidence pertaining to the Interest Rate Difference at the time that the Borrower submits to DSAA its plan for prepayment, if any, if no plan of prepayment is submitted, then no later than 10 days prior to the time that the Borrower submits to DSAA its prepayment application.

(ii) If the Secretary of the Treasury determines that the evidence submitted by the Borrower pertaining to the Interest Rate Difference is satisfactory in form and in substance, and that the Interest Rate Difference is substantial, a modified version of the Guaranty (deleting therefrom the provision that the Guaranty shall cease to be effective if any Guaranteed-Amount Debt Derivative is issued) will be attached to the Private Loan Note or the Private Loan Portion Notes, as the case may be.

(2) The Secretary of the Treasury shall have determined, in the sole discretion of the Secretary of the Treasury, that the respective Borrower's loan prepayment at par pursuant to subsection (a) of the Act through the issuance of any Guaranteed-Amount Debt Derivative is necessary to achieve the international economic policy interests of the United States.

§ 25.405 Form of guaranty.

(a) The Guaranty that will be attached to the Private Loan Note on the Closing Date shall be in the following form (except that the bracketed words shall be deleted if the conditions specified in § 25.404(b) shall have occurred):

For Value Received, the Defense Security Assistance Agency of the Department of Defense (''DSAA''), hereby guarantees to (Name of Lender) (''Lender''), incorporated under the laws of (U.S. State or other U.S. jurisdiction) or if not so incorporated or organized, then the principal place of doing business is (U.S. location, address, and zip code), under the authority of Section 24 of the Arms Export Control Act, as amended (''Act''), the due and punctual payment of ninety percent (90%) of amounts due: (1) on the promissory note (''Note'') in the principal amount of up to $_____ dated _____ issued to the Lender by the Government of (Name of Borrower) (''Borrower'') pursuant to the Loan Agreement between the Lender and the Borrower dated the ___th day of _____ (''Agreement''); and (2) the Lender from the Borrower pursuant to the Agreement.

This Guaranty is a guaranty of payment covering all political and credit risks of nonpayment, including any nonpayment arising out of any claim which the Borrower may now or hereafter have against any person, corporation, or other entity (including without limitation, the United States, the Lender, and any supplier of defense items) in connection with any transaction, for any reason whatsoever. This Guaranty shall inure to the

benefit of and shall be enforceable by the Lender and any Permitted Guaranty Holder (as hereinafter defined). This Guaranty shall not be impaired by any law, regulation or decree of the Borrower now or hereafter in effect which might in any manner change any of the terms of the Note or Agreement. The obligation of DSAA hereunder shall be binding irrespective of the irregularity, invalidity or unenforceability under any laws, regulations or decrees of the Borrower of the Note, the Agreement or other instruments related thereto.

DSAA hereby waives diligence, demand, protest, presentment and any requirement that the Lender exhaust any right or power to take any action against the Borrower and any notice of any kind whatsoever other than the demand for payment required to be given to DSAA hereunder in the event of default on a payment due under the Note.

In the event of failure of the Borrower to make payment, when and as due, of any installment of principal or interest under the Note, the DSAA shall make payment immediately to the Lender upon demand to the DSAA after the Borrower's failure to pay has continued for 10 calendar days. The amount payable under this Guaranty shall be ninety percent (90%) of the amount of the overdue installment of principal and interest, plus ninety percent (90%) of any and all late charges and interest thereon as provided in the Agreement. Upon payment by DSAA to the Lender, the Lender will assign to DSAA, without recourse or warranty, ninety percent (90%) of all of its rights in the Note and the Agreement with respect to such payment.

In the event of a default under the Agreement or the Note by the Borrower and so long as this Guaranty is in effect and the DSAA is not in default hereunder:

(i) The Lender or other Permitted Guaranty Holder shall not accelerate or reschedule payment of the principal or interest on the Note or any other note of the Borrower guaranteed by DSAA except with the written approval of DSAA; and

(ii) The Lender or other Permitted Guaranty Holder shall, if so directed by DSAA, invoke the default provisions of the Agreement.

Subject to the limitations set forth below, the Lender's rights under this Guaranty may be assigned to any ''Permitted Guaranty Holder,'' that is: (1) An individual domiciled in the United States; (2) a corporation incorporated, chartered or otherwise organized in the United States; or (3) a partnership or other juridical entity doing business in the United States. In the event of such assignment DSAA shall be promptly notified. The Lender will not agree to any material amendment of the Agreement or Note or consent to any material deviation from the provisions thereof without the prior written consent of DSAA.

Permitted Guaranty Holders shall be severally bound by, and shall be severally entitled to, the rights and obligations of the Lender under the Note, the Agreement, and this Guaranty. The Lender shall maintain a current, accurate written record of the names, addresses, amount of financial interest in the Note and Agreement, and date of acquisition of such interest of each Permitted Guaranty Holder and shall furnish DSAA a copy of such record on its demand without charge. No assignment by the Lender or by any Permitted Guaranty Holder shall be effective for purposes of this Guaranty unless and until so recorded by the Lender.

The total amount of this Guaranty shall not at any time exceed ninety percent (90%) of the outstanding principal, unpaid accrued interest and arrearages, if any, under the Agreement and the Note, including any portion of the Note, or any derivative of the Note or any portion of the Note.

This Guaranty shall cease to be effective with respect to the guaranteed amount of the total amount of the Note (the ''Guaranteed Loan Amount'') or with respect to the guaranteed amount of any portion of the Note (the ''Guaranteed Loan Portion Amount'') [or with respect to the amount of any derivative or derivatives of the Note or any portion of the Note equal, or in the aggregate equal, in principal amount to the total amount of the Note or such portion of the Note, as the case may be, which amount of such derivative or derivatives is equal to the respective Guaranteed Loan Amount or Guaranteed Loan Portion Amount, as the case may be (the ''Guaranteed-Amount Equivalent'')] to the extent that (1) the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount [or the respective Guaranteed-Amount Equivalent], as the case may be, is at any time separated from the unguaranteed amount of the total amount of the Note or the unguaranteed amount of the respective portion of the Note [or the amount of such derivative or derivatives of the Note which is not the amount which is equal to the Guaranteed Loan Amount or Guaranteed Loan Portion Amount, as the case may be], in any way, (a) directly, or (b) through the issuance of participation shares of, or undivided ownership or other equity interests in, the Note, or any portion of the Note, or any derivative of the Note or any portion of the Note, which have an exclusive or preferred claim to the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount [or the respective Guaranteed-Amount Equivalent], as the case may be [or (c) through the issuance of

notes, bonds or other debt instruments or obligations which are collateralized or otherwise secured by a pledge of, or security interest in, the Note, or any portion of the Note or any derivative of the Note or any portion of the Note, which has an exclusive or preferred claim to the Guaranteed Loan Amount or the respective Guaranteed Loan Portion Amount or the respective Guaranteed-Amount Equivalent, as the case may be]; or (2) any holder of the Note, or any portion of the Note, or any derivative of the Note or any portion of the Note, as the case may be, having claim to payment made on the Note, receives more than ninety percent of any payment due to such holder from payments made under this Guaranty at any time during the term of the Note or the Agreement.

This Guaranty is fully and freely transferable to any Permitted Guaranty Holder, except that it shall cease to be effective with respect to the Agreement or the Note, or any portion of the Note, or any derivative of the Note or any portion of the Note, to the extent that the Agreement or the Note, or the respective portion of the Note, or the respective derivative of the Note or any portion of the Note, as the case may be, is used to provide significant support for any non-registered obligation.

The full faith and credit of the United States is pledged to the performance of this Guaranty. No claim which the United States may now or hereafter have against the Lender or any Permitted Guaranty Holder for any reason whatsoever shall affect in any way the right of the Lender or any Permitted Guaranty Holder to receive full and prompt payment of any amount otherwise due under this Guaranty. The United States represents and warrants that (a) it has full power, authority and legal right to execute, deliver and perform this Guaranty, (b) this Guaranty has been executed in accordance with and pursuant to the terms and provisions of section 24 of the Act, the provisions of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the hearing ''Foreign Military Sales Debt Reform,'' and title 31, part 25, of the Code of Federal Regulations, (c) this Guaranty has been duly executed and delivered by a duly authorized representative of DSAA, and (d) this Guaranty constitutes the valid and legally binding obligations of the United States, enforceable in accordance with the terms hereof.

Any notice, demand, or other communication hereunder shall be deemed to have been given if in writing and actually delivered to the Comptroller, DSAA, the Pentagon, Washington, DC 20301–2800, or the successor, or such other place as may be designated in writing by the Comptroller, DSAA or the successor thereof.

By acceptance of the Note, the Lender agrees to the terms and conditions of this Guaranty.

Dated: _____

By: _____

Director, DSAA.

(b) The obligations of DSAA under the Guaranty are expressly limited to those obligations contained in the form of Guaranty set forth in paragraph (a) of this section. Any provisions of any agreement relating to the Private Loan purporting to create obligations on the part of DSAA which are inconsistent with the terms of the Guaranty or any other provision of this part be unenforceable against DSAA.

§ 25.406 Savings clause.

Nothing in this rule is intended to authorize any person or entity to engage in any activity not otherwise authorized or permitted for such person or entity under any applicable laws of the United States, any territory or possession of the United States, any State, or the District of Columbia.

PART 26—ENVIRONMENTAL REVIEW OF ACTIONS BY MULTILATERAL DEVELOPMENT BANDS (MDBs)

Sec.
26.1 Purpose.
26.2 Availability of project listings.
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26.5 Upgrades and additional environmental information.

AUTHORITY: 22 U.S.C. 262m–7, 31 U.S.C. 321.

SOURCE: 57 FR 24545, June 10, 1992, unless otherwise noted.

§ 26.1 Purpose.

This part prescribes procedures for the environmental review of, and comment by Federal agencies and the public on, proposed projects of multilateral development banks (MDBs).

§ 26.2 Availability of project listings.

(a) The Office of Multilateral Development Banks of the Department of the Treasury (hereinafter ''MDB Office'') will ensure that the Environmental Protection Agency (EPA), the