

LOAN (AIRLINES EQUIPMENT).

No. 117 of 1964.

An Act to approve the raising by way of Loan of Moneys in the Currency of the United States of America to be lent to the Australian National Airlines Commission and to Qantas Empire Airways Limited, and for purposes connected therewith.

[Assented to 23rd November, 1964.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Loan (Airlines Equipment) Act 1964*. Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3.—(1.) In this Act, “the Loan Agreement” means the agreement entered into between the Commonwealth and various lenders in the United States of America a copy of which is set out in the Schedule to this Act. Interpretation.

(2.) For the purposes of this Act, the Series A Notes and the Series B Notes delivered by the Commonwealth under the Loan Agreement shall be deemed to form part of the Loan Agreement.

4. The borrowing by the Treasurer, on behalf of the Commonwealth, in accordance with the Loan Agreement, of moneys in the currency of the United States of America not exceeding in the whole Thirty million dollars is approved. Approval of borrowing.

5.—(1.) For the purpose of making available—

- (a) to the Australian National Airlines Commission moneys required by the Commission in connexion with the purchase by the Commission of one Boeing 727 jet aircraft and related equipment and spares; and
- (b) to Qantas Empire Airways Limited moneys required by that company in connexion with the purchase by that company of Boeing 707 jet aircraft and related equipment and spares,

Application of moneys.

the Treasurer may, on behalf of the Commonwealth, lend to the Commission and to that company, respectively, upon such terms and conditions as he determines, such amounts as are, in the aggregate, equivalent to the moneys borrowed under the Loan Agreement.

(2.) The moneys required for the purpose of loans under the last preceding sub-section are payable out of the Loan Fund, which is to the necessary extent appropriated accordingly.

(3.) Amounts borrowed by the Australian National Airlines Commission under this section shall not be taken into account for the purposes of sub-section (5.) of section thirty-one of the *Australian National Airlines Act 1945-1961*.

Expenses and charges.

6. The expenses of borrowing under the Loan Agreement, and any commitment fee, interest or other payment payable under that agreement, shall be paid out of the Consolidated Revenue Fund.

Repayment of loan moneys.

7. Moneys borrowed under the Loan Agreement shall be repaid out of the Consolidated Revenue Fund in accordance with the provisions of the Loan Agreement.

Appropriation of Consolidated Revenue Fund.

8. The Consolidated Revenue Fund is appropriated to the extent necessary for the purposes of the last two preceding sections.

National Debt Sinking Fund Act not to apply.

9. The *National Debt Sinking Fund Act 1923-1959* does not apply in relation to moneys borrowed under the Loan Agreement.

THE SCHEDULE.

Section 3.

LOAN AGREEMENT dated November 2, 1964 between COMMONWEALTH OF AUSTRALIA (the "Commonwealth"), the Banks named in Section 1 hereof (the "Banks") and MORGAN GUARANTY TRUST COMPANY OF NEW YORK, as Agent (the "Agent").

The Commonwealth has requested the Banks to make loans to it for the purpose of enabling the Commonwealth to make available to the Australian National Airlines Commission trading as Trans-Australia Airlines ("TAA") and to Qantas Empire Airways Limited ("Qantas") amounts in United States Dollars ("dollars") required by TAA to assist in financing the purchase of one Boeing 727 aircraft and related equipment and spares and required by Qantas to assist in financing the purchase of two or three Boeing 707 aircraft and related equipment and spares. Upon the terms hereof the Banks are prepared to make loans for such purpose. Accordingly, the parties agree as follows:

THE SCHEDULE—continued.

SECTION 1. Each Bank severally agrees to make loans in dollars to the Commonwealth at the latter's request at any time or from time to time prior to March 15, 1966 (the "Interim Loans") in an aggregate amount not to exceed the amount set forth below opposite its name:

<i>Bank</i>	<i>Address</i>	
Morgan Guaranty Trust Company of New York	23 Wall Street New York, N.Y. 10015	\$8,000,000
The Chase Manhattan Bank ..	One Chase Manhattan Plaza, New York, N.Y. 10005	8,000,000
Bankers Trust Company ..	16 Wall Street New York, N.Y. 10015	3,000,000
Continental Illinois National Bank and Trust Company of Chicago	231 South LaSalle Street, Chicago, Ill. 60690	3,000,000
American Security and Trust Company	15th Street and Pennsylvania Ave., N.W., Washington, D.C. 20013	2,000,000
		<hr/> \$24,000,000

Prior to March 15, 1965, the Commonwealth may give written notice to the Agent stating either (a) that it elects to increase to \$30,000,000 the aggregate amount which the Banks are committed to lend under this Agreement or (b) that it elects not to increase the aggregate amount which the Banks are committed to lend under this Agreement, and in the event such notice shall be in accordance with clause (a) above each Bank agrees that the amount set forth above opposite its name shall be increased by the amount which is in the same proportion to \$6,000,000 as the amount so set forth is to \$24,000,000. Any such election shall be irrevocable. The Agent shall promptly deliver to each of the Banks a copy of any such notice.

Each Interim Loan shall be evidenced by a promissory note ("Series A Notes") substantially in the form of Exhibit A (with appropriate insertions), dated the date of the loan, bearing interest at the rate of $4\frac{1}{2}\%$ per annum and maturing on December 31, 1966. The Commonwealth agrees that the first borrowing pursuant to this Section will be made on or before December 31, 1964 in an aggregate amount equal to \$1,000,000 or a greater multiple of \$250,000 and that each subsequent borrowing pursuant to this Section except the last will be in an aggregate amount equal to \$500,000 or a greater multiple of \$250,000. The Commonwealth will give the Agent at least ten days' written or telegraphic notice of the date on which each borrowing pursuant to this Section is to be made and the total amount of such borrowing. The Agent will give at least five days' written or telegraphic notice to each Bank of the date and amount of each Interim Loan to be made by such Bank, which shall be in the same proportion to the total amount then to be borrowed by the Commonwealth hereunder as the amount set forth above opposite the name of such Bank is to \$24,000,000, and on or prior to the date of borrowing such Bank shall make available to the Agent the amount of the Interim Loan to be made by it in New York Clearing House funds.

SECTION 2. The Commonwealth will pay to the Agent for the account of each Bank a commitment fee computed at the rate of $\frac{3}{4}$ of 1% per annum (on the basis of a year of 365 days) on the daily average unused amount which such Bank may become obligated to lend under this Agreement in respect of the period from October 15, 1964 through March 15, 1966; provided that (a) from and after the date upon which the Agent shall receive written notice from the Commonwealth pursuant to Section 1 that it elects not to increase the aggregate amount which the Banks are committed to lend under this Agreement or (b) from and after March 15, 1965 in the event the Agent shall receive no written notice from the Commonwealth pursuant to Section 1, the amount on which such commitment fee shall be payable shall be the daily average unused portion of the amount which is set forth opposite the name of such Bank in Section 1. The accrued portion of such commitment fee will be paid by the Commonwealth in dollars in New York Clearing House funds on December 31, 1964 and on the last day of each calendar quarter thereafter at the Agent's office, 23 Wall Street, New York, N.Y. 10015.

SECTION 3. Each Bank severally agrees to lend to the Commonwealth, and the Commonwealth agrees to borrow from such Bank, on December 31, 1966 an amount equal to the aggregate amount of the Interim Loans made by such Bank (the "Term Loans"). On or prior to December 31, 1966, each Bank will make available to the Agent an aggregate principal amount of Series A Notes equal to the aggregate amount of the Interim Loans made by such Bank. The Series A Notes so made available to the Agent by each Bank shall, on December 31, 1966, upon payment of all interest accrued thereon, be surrendered by the Agent to the Commonwealth, for cancellation, in exchange

THE SCHEDULE—continued.

for an equal principal amount of Notes evidencing the Term Loan to be made by such Bank on that date. Each Term Loan shall be evidenced by fourteen promissory notes ("Series B Notes"—the Series A Notes and Series B Notes being sometimes herein called the "Notes") substantially in the form of Exhibit B (with appropriate insertions). The fourteen Series B Notes evidencing each Term Loan will be of equal principal amount, will be dated December 31, 1966 and will be numbered, will mature and will bear interest at a rate per annum according to the following schedule:

<i>Number</i>	<i>Maturity</i>	<i>Interest Rate</i>
1	June 30, 1967	4.75 %
2	December 31, 1967	4.75
3	June 30, 1968	4.875
4	December 31, 1968	4.875
5	June 30, 1969	5.
6	December 31, 1969	5.
7	June 30, 1970	5.125
8	December 31, 1970	5.125
9	June 30, 1971	5.25
10	December 31, 1971	5.25
11	June 30, 1972	5.25
12	December 31, 1972	5.25
13	June 30, 1973	5.25
14	December 31, 1973	5.25

SECTION 4. All payments of principal of and interest on the Notes will be made to the Agent in dollars in New York Clearing House funds at its office at 23 Wall Street, New York, N.Y. 10015. Interest on the Notes will be computed on the basis of a year of 365 days. In the event the date upon which any payment of principal on the Notes is due as stated therein shall be in The City of New York a day upon which banking institutions are authorized by law to close, such principal payment may be made on either the next preceding or the next succeeding day not in The City of New York a day on which banking institutions are so authorized to close, together with accrued interest on the amount of such principal payment to the date of payment. Interest shall not be charged for the date on which any principal payment is made on the amount of such principal payment and for this purpose the delivery of a Series B Note in exchange for a Series A Note or Series A Notes shall be deemed to be a principal payment of an amount equal to the principal amount of such Series B Note.

SECTION 5. Each of the Notes will bear the manual or facsimile signature of the person who is at the time the signature is inscribed the Treasurer of the Commonwealth and the manual signature of the person who is at the time of signing the Australian Consul-General at New York or the Acting Australian Consul-General at New York or the Senior Finance Officer at the Australian Consulate-General at New York.

SECTION 6. The Commonwealth represents, warrants and agrees that the principal of and interest on the Notes will be free of all present or future taxes imposed by the Commonwealth, or by any taxing authority thereof or therein, except to the extent that the right to receive payment of the principal of or interest on any Note is or comes to be beneficially owned by any person residing in or ordinarily a resident of Australia, or the Territory of Papua or the Territory of New Guinea.

SECTION 7. The Commonwealth represents and warrants that there has been no material adverse change in the financial, economic or political conditions of the Commonwealth from the conditions set forth in the Prospectus dated April 10, 1963 relating to the Commonwealth's Twenty Year 5% Bonds Due April 1, 1983.

SECTION 8. The Commonwealth represents and warrants that the proceeds of the Interim Loans and Term Loans will be made available to TAA and Qantas to assist them in financing the purchase of Boeing 727 and 707 jet aircraft manufactured in the United States and related equipment and spares, and for no other purpose. The Commonwealth also represents and warrants that not less than 85% of the proceeds of the Interim Loans and Term Loans is to be used for the purchase of property manufactured in the United States. Upon request of the Agent the Commonwealth agrees to furnish the Agent invoices or other supporting documents as necessary to establish such use of such proceeds.

THE SCHEDULE—*continued.*

SECTION 9. The obligation of each Bank to make each loan hereunder is subject to the performance by the Commonwealth of all its obligations under this Agreement, to the accuracy of its representations and warranties herein contained and to the satisfaction of the following further conditions:

- (a) The Agent shall have received a Note or Notes, as the case may be, to such Bank in the amount of the loan then being made by it;
- (b) Before the making of the first Interim Loans hereunder the Agent shall have received a certified copy of an opinion of the Secretary or Acting Secretary to the Attorney-General's Department of the Commonwealth, in a form satisfactory to counsel for the Banks, to the effect that (i) the borrowings provided for in this Agreement and the Notes have been duly authorized in accordance with the laws of the Commonwealth and the Order or Orders in Council applicable thereto; (ii) the Notes, when executed as provided in Section 5 and delivered in accordance herewith, will constitute valid, binding, absolute and unconditional obligations of the Commonwealth enforceable in accordance with their terms, for the performance of which the full faith and credit of the Commonwealth is pledged; and (iii) this Agreement has been duly authorized and executed in accordance with the laws of the Commonwealth and the Order or Orders in Council applicable hereto and is a valid and binding obligation of the Commonwealth enforceable in accordance with its terms; and
- (c) All legal matters relating to each loan hereunder and the Notes shall be satisfactory to counsel for the Banks, Messrs. Davis Polk Wardwell Sunderland & Kiendl, and to such Australian counsel as they may consult.

SECTION 10. The Commonwealth agrees that, from the date hereof until the payment in full of the Notes:

- (a) If the Commonwealth sells, offers for public subscription or in any manner disposes of any bonds or loans constituting external debt of the Commonwealth secured by lien on any revenue or asset of the Commonwealth, the Notes will be secured equally and ratably therewith and the Commonwealth will make appropriate provision to that end, where necessary;
- (b) From time to time, at the request of the Agent, the Commonwealth will promptly deliver to the Agent copies of all reports and other documents filed by the Commonwealth after the date hereof with the United States Securities and Exchange Commission; and
- (c) The Agent and each of the Banks may accept and rely upon requests for advances, notices or other communications from the Commonwealth, relative to the transactions hereby contemplated, if signed by any person at the time the Australian Consul-General at New York or the Acting Australian Consul-General at New York or the Senior Finance Officer at the Australian Consulate-General at New York.

SECTION 11. If any principal or interest on any Note is not paid when due, and if any such default continues for ten days, the Agent, by written notice mailed to the Commonwealth, addressed to The Commonwealth Treasury, Canberra, Australia, may, and if so requested in writing by the holders of 33 $\frac{1}{3}$ % in aggregate principal amount of the Notes shall, declare the entire principal amount of each Note, and accrued interest thereon, to be, and the same will become, forthwith due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived.

SECTION 12. Each of the Banks and each subsequent holder of Notes by its acceptance thereof irrevocably authorizes the Agent to receive all payments of principal and interest on the Notes and all commitment fees, and to take all other action delegated to it hereunder or reasonably incidental thereto, and agrees that neither the Agent nor any of its directors, officers or employees shall be liable for any action taken or omitted in the absence of negligence or willful misconduct. The Agent may treat the payee of any Note as the holder thereof until written notice of transfer shall have been filed with it. The Agent shall promptly notify the Commonwealth of any such notice received by it.

SECTION 13. The Commonwealth will reimburse the Agent for its out-of-pocket expenses (including counsel fees) in connection with this Agreement and the loans hereunder.

No. 117.

Loan (Airlines Equipment).

1964.

THE SCHEDULE—*continued.*

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first above written.

COMMONWEALTH OF AUSTRALIA

By A. R. Cutler
Australian Consul-General at New York

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK

By Sidney G. Butler
Vice President

THE CHASE MANHATTAN BANK

By Martin R. Hansen
Vice President

BANKERS TRUST COMPANY

By Ellsworth Donnell
Vice President

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO

By J. R. Stunzi
Vice President

AMERICAN SECURITY AND TRUST
COMPANY

By Henry K. Willard, II
Vice President

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK, as Agent

By Sidney G. Butler
Vice President

EXHIBIT A

§

, 196 .
New York, N.Y.

On December 31, 1966, for value received, COMMONWEALTH OF AUSTRALIA (the "Commonwealth") hereby promises to pay to the order of _____, at the office of Morgan Guaranty Trust Company of New York, 23 Wall Street, New York, N.Y., 10015, the principal sum of _____ dollars in lawful money of the United States of America, and to pay interest thereon in like money from the date hereof until the maturity hereof, at said office, quarterly on the last day of each calendar quarter, at the rate of 4½ % per annum.

This note is one of the Series A Notes referred to in the Loan Agreement dated November _____, 1964 between the Commonwealth, certain banks and Morgan Guaranty Trust Company of New York, as Agent and is entitled to the benefits therein provided. Upon the terms provided in such Loan Agreement, the principal hereof and accrued interest hereon may become payable prior to stated maturity.

The principal hereof and interest hereon will be paid free of all taxes now or at any time hereafter imposed by the Commonwealth, or by any taxing authority thereof or therein, except to the extent that the right to receive payment of the principal of or interest on this note is or comes to be beneficially owned by any person residing in or ordinarily a resident of Australia or the Territory of Papua or the Territory of New Guinea.

COMMONWEALTH OF AUSTRALIA

By
Treasurer of the Commonwealth of Australia

1964.

Loan (Airlines Equipment).

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THE SCHEDULE—*continued.*

EXHIBIT B

December 31, 1966.

New York, N.Y.

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On _____, for value received, COMMONWEALTH OF AUSTRALIA (the "Commonwealth") hereby promises to pay to the order of _____, at the office of Morgan Guaranty Trust Company of New York, 23 Wall Street, New York, N.Y., 10015, the principal sum of _____ dollars in lawful money of the United States of America, and to pay interest thereon in like money from the date hereof until the maturity hereof, at said office, quarterly on the last day of each calendar quarter, at the rate of _____ per annum.

This note is one of the Series B Notes referred to in the Loan Agreement dated November _____, 1964 between the Commonwealth, certain banks and Morgan Guaranty Trust Company of New York, as Agent, and is entitled to the benefits therein provided. Upon the terms provided in such Loan Agreement, the principal hereof and accrued interest hereon may become payable prior to stated maturity.

The principal hereof and interest hereon will be paid free of all taxes now or at any time hereafter imposed by the Commonwealth, or by any taxing authority thereof or therein, except to the extent that the right to receive payment of the principal of or interest on this note is or comes to be beneficially owned by any person residing in or ordinarily a resident of Australia or the Territory of Papua or the Territory of New Guinea.

COMMONWEALTH OF AUSTRALIA

By

Treasurer of the Commonwealth of Australia
