

No. 4667

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

**Guarantee Agreement—*Calcutta Port Project* (with annexed
Loan Regulations No. 4 and Loan Agreement between
the Bank and the Commissioners for the Port of Cal-
cutta). Signed at Washington, on 25 June 1958**

Official text: English.

*Registered by the International Bank for Reconstruction and Development on
9 February 1959.*

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

**Contrat de garantie — *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 Com-
missaires du port de Calcutta). Signé à Washington,
le 25 juin 1958**

Texte officiel anglais.

*Enregistré par la Banque internationale pour la reconstruction et le développement
le 9 février 1959.*

No. 4667. GUARANTEE AGREEMENT¹ (*CALCUTTA PORT PROJECT*) BETWEEN INDIA AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 25 JUNE 1958

AGREEMENT, dated June 25, 1958, 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-nine million dollars (\$29,000,000), 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 June 15, 1956,² 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 2 October 1958, upon notification by the Bank to the Government of India.

² See p. 140 of this volume.

³ See p. 154 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.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Guarantee Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

India :

By Harishwar DAYAL
Authorized Representative

International Bank for Reconstruction and Development :

By Davidson SOMMERS
Vice President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 JUNE 1956

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO BORROWERS OTHER THAN
MEMBER GOVERNMENTS

[*Not published herein. See United Nations, Treaty Series, Vol. 260, p. 376.*]

LOAN AGREEMENT (*CALCUTTA PORT PROJECT*)

AGREEMENT, dated June 25, 1958, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and THE COMMISSIONERS FOR THE PORT OF CALCUTTA (hereinafter called the Borrower).

Article I

LOAN REGULATIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,¹ subject, however, to the modifications thereof set forth in Schedule 3² to this 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.

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 twenty-nine million dollars (\$29,000,000).

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 Regulations.

Section 2.03. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ($\frac{3}{4}$ of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time. Such commitment charge shall accrue from a date sixty days after the date of this Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Loan Account as provided in Article IV of the Loan Regulations or shall be cancelled pursuant to Article V of the Loan Regulations.

¹ See above.

² See p. 154 of this volume.

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 Bank and the Borrower 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 semi-annually on April 15 and October 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 1¹ to this Agreement.

Article III

USE OF PROCEEDS OF THE LOAN

Section 3.01. The Borrower shall apply the proceeds of the Loan exclusively to financing the cost of goods required to carry out the Project described in Schedule 2² 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 Bank and the Borrower, subject to modification by further agreement between them.

Section 3.02. Except as shall be otherwise agreed between the Bank and the Borrower, the Borrower shall cause all goods financed out of the proceeds of the Loan to be imported into the territories of the Guarantor and there to be used exclusively in the carrying out of the Project.

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 Chairman and two other Commissioners of the Borrower are designated as authorized representatives of the Borrower for the purposes of Section 6.12 (a) of the Loan Regulations.

Article V

PARTICULAR COVENANTS

Section 5.01. (a) The Borrower shall carry out the Project, and conduct its operations with due diligence and efficiency and in conformity with sound engineering, financial and business practices.

¹ See p. 150 of this volume.

² See p. 152 of this volume.

(b) The Borrower shall furnish to the Bank, promptly upon their preparation, the plans and specifications and the construction schedule for the Project and any material modifications subsequently made therein, in such detail as the Bank shall from time to time reasonably request.

(c) The Borrower shall maintain records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the Borrower; shall enable the Bank's representatives to inspect its properties and operations including the sites, works and construction included in the Project, the goods and any relevant records and documents; and shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, the goods, and the operations and financial condition of the Borrower.

Section 5.02. (a) The Bank and the Borrower 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.

(b) The Bank and the Borrower 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 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 or the maintenance of the service thereof.

Section 5.03. (a) The Loan and the Bonds shall be a first charge on the property now vested, or which hereafter may become vested, in the Borrower and on the tolls, dues, rates, rents and charges leviable by the Borrower under the Calcutta Port Act, 1890 (Bengal Act III of 1890) to the same extent as, but not to any greater extent than, if the Loan and the Bonds were debentures issued or to be issued pursuant to said Act and without preference, priority or distinction of any part of the Loan or any Bond or any such debenture over any other part of the Loan or any Bond or any other such debenture by reason of maturity, date of issue or otherwise; (b) the Bank and the holders of the Bonds other than the Bank shall be deemed to be debenture-holders for the purposes of sections 26 and 27 of such Act; and (c) no debenture-holder of the Borrower and no holder of any other obligation of the Borrower shall have or be deemed to have any prior or greater right, preference or distinction than the charge hereby created by reason of priority in the date, issue, sale or negotiation of the Borrower's debentures or obligations or otherwise.

Section 5.04. 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 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, except to the extent that such equal and ratable security shall be validly constituted by operation of law, 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 lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods; or (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

Section 5.05. The Borrower shall pay or cause to be paid all taxes or fees, if any, imposed under the laws of the Guarantor or laws in effect in the territories of the Guarantor on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement or the Bonds, or the payment of principal, interest or other charges thereunder; provided, however, that the provisions of this Section shall not apply to taxation of, or fees 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 5.06. The Borrower shall pay or cause to be paid all taxes and fees, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement¹ or the Bonds.

Article VI

REMEDIES OF THE BANK

Section 6.01. (i) If any event specified in paragraph (a), paragraph (b), paragraph (e) or paragraph (f) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or (ii) if any event specified in paragraph (c) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Agreement or in the Bonds to the contrary notwithstanding.

Article VII

EFFECTIVE DATE; TERMINATION

Section 7.01. The following is specified as an additional matter, within the meaning of Section 9.02 (e) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank: that the Borrower has full power and authority to construct and operate the Project and that, except as stated in such opinion, all acts, consents, sanctions and approvals necessary therefor, have been duly and validly performed or given.

Section 7.02. A date ninety days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

¹ See p. 132 of this volume.

Article VIII

MISCELLANEOUS

Section 8.01. The Closing Date shall be September 30, 1962.

Section 8.02. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower :

The Commissioners for the Port of Calcutta
Calcutta
India

Alternative address for cablegrams and radiograms :

Port Commissioners
Calcutta

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.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be executed in their respective names, and to be delivered in the District of Columbia, United States of America, as of the day and year first above written.

International Bank for Reconstruction and Development :

By Davidson SOMMERS
Vice President

The Commissioners for the Port of Calcutta :

By R. K. MITRA
Chairman

G. D. LONGHURST
Commissioner

A. MITRA
Commissioner

[SEAL]

SCHEDULE 1

AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>
April 15, 1963	\$605,000	April 15, 1971	\$933,000
October 15, 1963	621,000	October 15, 1971	959,000
April 15, 1964	639,000	April 15, 1972	986,000
October 15, 1964	656,000	October 15, 1972	1,013,000
April 15, 1965	674,000	April 15, 1973	1,040,000
October 15, 1965	693,000	October 15, 1973	1,069,000
April 15, 1966	712,000	April 15, 1974	1,098,000
October 15, 1966	731,000	October 15, 1974	1,129,000
April 15, 1967	751,000	April 15, 1975	1,160,000
October 15, 1967	772,000	October 15, 1975	1,192,000
April 15, 1968	793,000	April 15, 1976	1,224,000
October 15, 1968	815,000	October 15, 1976	1,258,000
April 15, 1969	837,000	April 15, 1977	1,293,000
October 15, 1969	861,000	October 15, 1977	1,328,000
April 15, 1970	884,000	April 15, 1978	1,365,000
October 15, 1970	909,000		

* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any part of the principal amount of the Loan pursuant to Section 2.05 (b) of the Loan Regulations or on the redemption of any Bond prior to its maturity pursuant to Section 6.16 of the Loan Regulations :

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than 3 years before maturity	½ of 1%
More than 3 years but not more than 6 years before maturity	1 ½%
More than 6 years but not more than 11 years before maturity	2 ½%
More than 11 years but not more than 16 years before maturity	3 ½%
More than 16 years but not more than 18 years before maturity	4 ½%
More than 18 years before maturity	5 ½%

SCHEDULE 2

DESCRIPTION OF PROJECT

The Project consists of a program of rehabilitation and improvement of the Port of Calcutta, as part of India's Second Five Year Plan. It is estimated to involve expenditures in Indian currency and foreign exchange, after April 1, 1957, amounting to the equivalent of about \$59 million and comprises the following main items :

1. Improvement of harbor facilities

In King George's Dock three berths will be provided with transit sheds and developed as general cargo berths, one as an oil berth and one as a laying-up berth. In Kidderpore Docks, berths Nos. 22, 23, 24, 25 and 26 will be improved and the quay walls in No. 1 dock will be reconditioned and strengthened. Electric cranes and lifts, mechanical cargo-handling equipment, one 30-ton and one 60-ton floating crane and other miscellaneous minor equipment will be purchased. The water and electricity supply in certain areas will be improved. Three new moorings will be provided and laid at Diamond Harbor.

2. Improvement of the River Hooghly

The navigability of the Fulda Point-Hooghly Point reach of the River Hooghly will be improved by cutting back Fulda Point a maximum of about 1,200 feet, constructing dikes above and below the mouth of the Damodar River for the purpose of extending the River Hooghly bank riverward, and carrying out other related works, in general accordance with the scheme recommended by the Poona Research Station. The warping jetty at the entrance to King George's Dock will be reconstructed and the bull nose at the upstream side of the entrance will be removed.

3. Improvement of railway facilities

The existing marshalling yard will be improved and extended, and the related work of reconstructing the Majerhat Bridge and relocating the Budge Budge section of the Eastern Railway will be carried out. Nine diesel locomotives will be purchased, a repair shed will be provided and the existing railway workshop will be modernized.

4. Floating craft and facilities

The following additional floating equipment will be acquired :

- a) A suction hopper dredger.
- b) A bucket dredger and two hopper barges.
- c) A jet dredger.
- d) A salvage tug-cum-despatch vessel.
- e) A pilot vessel.
- f) Two firefloats with dumb barges.
- g) Two anchor vessels.

- h) Three launches for Dock Master.
- i) Other salvage equipment.

Existing shops for the maintenance and repair of the Borrower's floating craft will be extended and additional plant and machinery installed.

5. *Miscellaneous works*

A new tea warehouse will be built. The existing firefighting system will be improved and new fire protection devices installed.

SCHEDULE 3

MODIFICATIONS OF LOAN REGULATIONS NO. 4

For the purposes of this Agreement the provisions of Loan Regulations No. 4 of the Bank, dated June 15, 1956, shall be deemed to be modified as follows :

(a) by the deletion of Section 2.02.

(b) The second sentence of Section 7.02 is amended to read as follows :

“Such obligations shall not be subject to any prior notice to, demand upon or action against the Borrower or to any prior notice to or demand upon the Guarantor with regard to any default by the Borrower, and shall not be impaired by any of the following :’ any extension of time, forbearance or concession given to the Borrower; any assertion of, or failure to assert, or delay in asserting, any right, power or remedy against the Borrower or in respect of any security for the Loan; any modification or amplification of the provisions of the Loan Agreement contemplated by the terms thereof; any modification or amplification of any other document related to the Loan or related to any security therefor; any failure of the Borrower to comply with any requirement of any law, regulation or order of the Guarantor or of any political subdivision or agency of the Guarantor.”

(c) Paragraph 6 of Section 10.01 is amended to read as follows :

“6. The term ‘Borrower’ means the party to the Loan Agreement to which the Loan is made; and the term ‘Guarantor’ means India, acting by its President.”