

No. 4668

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

**Guarantee Agreement—*Madras Port Project* (with annexed
Loan Regulations No. 4 and Loan Agreement between
the Bank and the Trustees of the Port of Madras).
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 Madras*
(avec, en annexe, le Règlement n° 4 sur les emprunts
et le Contrat d'emprunt entre la Banque et les *Trustees*
du port de Madras). 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. 4668. GUARANTEE AGREEMENT¹ (*MADRAS 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 Trustees of the Port of Madras (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 fourteen million dollars (\$14,000,000), 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 Guarantee Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,³ subject, however, to the modifications thereof set forth in Schedule 3⁴ 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.

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

¹ Came into force on 2 October 1958, upon notification by the Bank to the Government of India.

² See p. 166 of this volume.

³ See p. 164 of this volume.

⁴ See p. 178 of this volume.

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 (*MADRAS PORT PROJECT*)

AGREEMENT, dated June 25, 1958, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and THE TRUSTEES OF THE PORT OF MADRAS (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 fourteen million dollars (\$14,000,000).

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.

Section 2.04. The Borrower shall pay interest at the rate of five and one-half per cent ($5\frac{1}{2}\%$) 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 ($\frac{1}{2}$ 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 1 and October 1 in each year.

¹ See p. 164 of this volume.

² See p. 178 of this volume.

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 Trustees 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.

(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

¹ See p. 174 of this volume.

² See p. 176 of this volume.

of the Loan, and 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. 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 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 5.04. 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 5.05. 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

¹ See p. 158 of this volume.

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.

Article VIII

MISCELLANEOUS

Section 8.01. The Closing Date shall be June 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 Trustees of the Port of Madras
Madras
India

Alternative address for cablegrams and radiograms :

Portrust
Madras

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 Trustees of the Port of Madras :

By K. N. SRINIVASAN
Chairman

M. V. ARUNACHALAM
Trustee

P. LAKSHMIPATHY NAIDU
Trustee
[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 1, 1963	\$292,000	April 1, 1971	\$451,000
October 1, 1963	300,000	October 1, 1971	463,000
April 1, 1964	308,000	April 1, 1972	476,000
October 1, 1964	317,000	October 1, 1972	489,000
April 1, 1965	325,000	April 1, 1973	502,000
October 1, 1965	334,000	October 1, 1973	516,000
April 1, 1966	344,000	April 1, 1974	530,000
October 1, 1966	353,000	October 1, 1974	545,000
April 1, 1967	363,000	April 1, 1975	560,000
October 1, 1967	373,000	October 1, 1975	575,000
April 1, 1968	383,000	April 1, 1976	591,000
October 1, 1968	394,000	October 1, 1976	607,000
April 1, 1969	404,000	April 1, 1977	624,000
October 1, 1969	415,000	October 1, 1977	641,000
April 1, 1970	427,000	April 1, 1978	659,000
October 1, 1970	439,000		

* 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 for the improvement, modernization and expansion of the facilities of the Port of Madras, 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 \$32.5 million and comprises the following main items :

1. *Improvement of existing general cargo berths*

The berth at the North Quay will be widened and strengthened and a combined passenger station and transit shed will be built thereon. Two deteriorated jetty berths at the South Quay will be reconstructed, with railway connections and a new transit shed. Mechanical cargo-handling gear will be provided for use at these and other existing general cargo berths.

2. *Construction of a new coal berth and a new ore berth and ancillary works and equipment*

Two new berths will be constructed in the southeast part of the harbor basin, one for unloading coal and one for loading ores. They will be connected by railway lines with new coal and ore yards along the south foreshore, and modern mechanical equipment for handling the coal and ores will be provided.

3. *Wet dock scheme*

a) A new wet dock will be constructed south of the harbor basin. The work to be done will include necessary excavation, quay walls of concrete caisson construction for six berths with provisions for water, electric and fire-fighting services, and a temporary steel-sheetpile bulkhead across the southern end of the dock.

b) Transit sheds will be constructed at two berths, and adequate cranes and mechanical handling equipment will be provided for the efficient working of the two berths and their sheds.

c) A movable bridge will be constructed across the entrance to the wet dock.

d) An existing warehouse will be reconstructed to a new alignment made necessary by the wet dock construction.

4. *Remodeling boat basin*

The existing boat basin will be enlarged and partly realigned, and a movable foot-bridge will be provided across its entrance.

5. *New marshalling yard and railway equipment*

A new marshalling yard for both broad-gauge and meter-gauge wagons will be constructed with protective storage facilities for railway equipment and lights for night working. Additional shunting locomotives, wagons, and other miscellaneous railway equipment will be provided.

6. *Improvements to workshops*

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

7. *Improved electricity supply*

The present 5 kv system will be converted to an 11 kv system, and improvements will be made to the lighting systems at existing berths and yards.

8. *Miscellaneous buildings*

a) A new administrative office building will be constructed and a transit shed will be erected at the site of the present offices.

b) A new warehouse, housing for lower-paid employees, a new hospital for port workers, and miscellaneous minor buildings, will be erected.

9. *Floating craft*

The following additional floating equipment will be acquired :

a) One suction hopper dredger with a hopper capacity of about 1,500 tons.

b) Two tugs, one fitted with fire-fighting equipment.

c) One floating crane.

d) Six small barges.

e) One water barge.

f) One small dredger.

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) 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. ”

(c) 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. ”