

No. 7809

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

Guarantee Agreement—*Haneda-Yokobama Expressway Project* (with related letter, annexed Loan Regulations No. 4 and Loan Agreement between the Bank and the Tokyo Expressway Public Corporation). Signed at Washington, on 23 December 1964

Official text: English.

Registered by the International Bank for Reconstruction and Development on 7 June 1965.

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

Contrat de garantie — *Projet d'autoroute Haneda-Yokobama* (avec lettre y relative et, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et la Tokyo Expressway Public Corporation). Signé à Washington, le 23 décembre 1964

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 7 juin 1965.

No. 7809. GUARANTEE AGREEMENT¹ (*HANEDA-YOKOHAMA EXPRESSWAY PROJECT*) BETWEEN JAPAN AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 23 DECEMBER 1964

AGREEMENT, dated December 23, 1964, between JAPAN (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 Tokyo Expressway Public Corporation (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-five million dollars (\$25,000,000), 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 February 15, 1961,² subject, however, to the modifications thereof set forth in Schedule 3 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 uncon-

¹ Came into force on 25 February 1965, upon notification by the Bank to the Government of Japan.

² See p. 48 of this volume.

ditionally 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, all as set forth in the Loan Agreement and in the Bonds.

Section 2.02. Whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for the construction of the Project and for the maintenance, repair, and the operation, during and after such construction, of the Project, all in accordance with sound engineering and highway practices, the Guarantor undertakes to make arrangements promptly to provide the Borrower or cause the Borrower to be provided on reasonable terms with such funds as are needed to meet such expenditures.

Article III

Section 3.01. The Guarantor shall cause to be performed, in accordance with the provisions of the Loan Agreement, all the covenants, agreements and obligations of the Borrower in respect of the Project and will take or cause to be taken all action necessary or appropriate to enable the Borrower to perform such covenants, agreements and obligations.

Section 3.02. (a) The Guarantor (i) shall make available, promptly as needed, all funds required to pay its share of the costs of the construction (or improvement) of the sections of the directly related street referred to in Section 5.08 (b) of the Loan Agreement and (ii) shall use its best and most diligent efforts within the limits of its constitutional powers to ensure that local governing authorities (A) contribute, promptly as needed, their share of the costs of the construction or improvement of such sections of the directly related street and (B) cause to be constructed or improved such sections within the jurisdiction of such local governing authorities.

(b) The Guarantor (i) shall make available, promptly as needed, all funds required to pay its share of the costs of the construction or improvement of the lateral access streets and (ii) shall use its best and most diligent efforts within the limits of its constitutional powers to ensure that local governing authorities (A) contribute, promptly as needed, their share of the costs of the construction or improvement of such lateral access streets and (B) construct or improve such streets within the jurisdiction of such local governing authorities.

For purposes of this Section, "lateral access streets" shall be such streets as agreed from time to time between the Guarantor and the Bank.

Section 3.03. 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; (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 the date on which it is originally incurred.

The term "assets of the Guarantor" as used in this Section includes assets of the Guarantor or of any agency of the Guarantor.

The Guarantor further undertakes that, within the limits of its constitutional powers, it will make the foregoing undertaking effective with respect to liens on the assets of any of its political subdivisions and their agencies, including local governing authorities.

Section 3.04. (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 3.05. 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 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 3.06. 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 3.07. 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. 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 :

Minister of Finance
Ministry of Finance
3-2, Kasumigaseki, Chiyoda-ku
Tokyo, Japan

Alternative address for cables and radiograms :

Minister of Finance
Okurasho, Tokyo

For the Bank :

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Alternative address for cables and radiograms :

Intbafrad
Washington, D.C.

Section 5.02. The Minister of Finance of the Guarantor 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.

Japan :

By Ryuji TAKEUCHI
Authorized Representative

International Bank for Reconstruction and Development :

By George D. WOODS
President

LETTER RELATING TO THE GUARANTEE AGREEMENT

EMBASSY OF JAPAN
WASHINGTON

December 23, 1964

International Bank for Reconstruction
and Development
1818 H Street, N.W.
Washington, D.C. 20433

Negative Pledge
Loan No. 398 JA (Haneda-Yokohama Expressway Project)

Dear Sirs :

With reference to Section 3.03 of the Guarantee Agreement (*Haneda-Yokohama Expressway Project*) of even date between Japan and International Bank for Reconstruction and Development, we take pleasure in confirming that :

(a) there is existing legislation consistent with the Japanese Constitution which enables the Government of Japan to control the external borrowings of its agencies, its political subdivisions and their agencies and the Bank of Japan, so as to oblige them to obtain the consent of the Government of Japan to any external borrowing and to the terms thereof, whether as to security or otherwise; and

(b) the Government of Japan will make the undertaking contained in said Section 3.03 effective with respect to liens on the assets of the Bank of Japan.

Very truly yours,

Japan :
By Ryuji TAKEUCHI
Authorized Representative

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 FEBRUARY 1961

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

[*Not published herein. See United Nations, Treaty Series, Vol. 400, p. 212.*]

LOAN AGREEMENT

(HANEDA-YOKOHAMA EXPRESSWAY PROJECT)

AGREEMENT, dated December 23, 1964, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and TOKYO EXPRESSWAY PUBLIC CORPORATION (hereinafter called the Borrower).

Article I

LOAN REGULATIONS; DEFINITIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated February 15, 1961, subject, however, to the modifications thereof set forth in Schedule 3 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.

Section 1.02. Wherever used in the Loan Agreement, the following terms have the following meanings :

(a) The term "ramp" means any road, for the exclusive use of toll traffic, connecting (i) the expressway included in the Project or (ii) the section of expressway referred to in Section 5.08 (a) of the Loan Agreement with other streets.

(b) The term "directly related street" means the street over which runs the Project

Article II

THE LOAN

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies equivalent to twenty-five million dollars (\$25,000,000).

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 Agreement.

Section 2.03. The Borrower shall pay to the Bank a commitment charge at the rate of three-eighths of one per cent ($\frac{3}{8}$ of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time.

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. Interest and other charges shall be payable semi-annually on February 15 and August 15 in each year.

Section 2.06. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule I to this Agreement.

Article III

USE OF PROCEEDS OF 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 construction of the Project described in Schedule 2 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. The Borrower shall cause all goods financed out of the proceeds of the Loan to be used exclusively in the construction 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 President of the Borrower and such person or persons as he shall appoint in writing 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 design and construction of the Project with due diligence and efficiency and in conformity with sound engineering and financial practices.

(b) Except as the Bank shall otherwise agree, in connection with the design, construction and operation of the Project, the Borrower shall employ engineering consultants

acceptable to, and to an extent and upon terms and conditions satisfactory to, the Bank and the Borrower.

(c) The general design standards to be used for the Project shall be satisfactory to the Bank and the Borrower.

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

(e) The Borrower shall : (i) 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 design and construction 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; (ii) enable the Bank's representatives to inspect the Project, the goods and any relevant records and documents; and (iii) 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 administration, operations and financial condition of the Borrower.

Section 5.02. The Borrower shall at all times operate, maintain and repair the Project in accordance with sound engineering and highway practices.

Section 5.03. (a) The Bank and the Borrower shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, the Bank and the Borrower shall from time to time, at the request of either party, exchange views through their representatives with regard to the performance by the Borrower of its obligations under the Loan Agreement, the administration, operations and financial condition of the Borrower and other matters relating to the purposes of the Loan.

(b) 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, the maintenance of the service thereof or the performance by the Borrower of its obligations under the Loan Agreement.

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 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 the date on which it is originally incurred.

Section 5.05. The Borrower shall pay or cause to be paid all taxes, if any, imposed under the laws of the Guarantor or the laws in effect in the territories of the Guarantor

on or in connection with the execution, issue, delivery or registration of the Loan 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 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, 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 the Loan Agreement, the Guarantee Agreement or the Bonds.

Section 5.07. (a) The Borrower shall at all times maintain its existence and right to carry on operations and shall, except as the Bank shall otherwise agree, take all steps necessary to maintain and renew all rights, powers, privileges and franchises which are necessary or useful for the successful construction and operation of the Project.

(b) The Borrower shall operate and maintain its equipment and property and from time to time make all necessary renewals and repairs thereof, all in accordance with sound business and engineering practices, and shall at all times carry on its operations in a sound, efficient and businesslike manner.

Section 5.08. The Borrower shall, prior to or at the time of the completion of the Project :

(a) Construct and open to traffic a section of expressway of approximately 2 kilometers in length from the boundary between Tokyo and Kanagawa Prefectures to a junction at Haneda International Airport with the existing Tokyo Expressway Route No.1 and the ramps to such section; such section shall be designed and constructed to the same design standards as the Project; and

(b) Except as otherwise agreed between the Bank and the Borrower, construct or improve sections of the directly related street at Shioiri and Daishibashi where ramps are to be constructed, in order to provide adequate capacity for the traffic on such directly related street after completion of such construction.

Article VI

REMEDIES OF 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

MISCELLANEOUS

Section 7.01. The Closing Date shall be November 30, 1968, or such other date as may from time to time be agreed between the Bank and the Borrower.

Section 7.02. A date 60 days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

Section 7.03. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower :

1-38 Mitake-Cho
Shibuya-Ku
Tokyo, Japan

Alternative address for cables and radiograms :

Shuto Kodan
Tokyo

For the Bank :

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Alternative address for cables 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 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.

International Bank for Reconstruction and Development :

By George D. WOODS
President

Tokyo Expressway Public Corporation :

By Joji KANZAKI
President

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>
February 15, 1969	335,000	August 15, 1979	595,000
August 15, 1969	345,000	February 15, 1980	610,000
February 15, 1970	355,000	August 15, 1980	630,000
August 15, 1970	365,000	February 15, 1981	645,000
February 15, 1971	375,000	August 15, 1981	665,000
August 15, 1971	385,000	February 15, 1982	680,000
February 15, 1972	395,000	August 15, 1982	700,000
August 15, 1972	405,000	February 15, 1983	720,000
February 15, 1973	420,000	August 15, 1983	740,000
August 15, 1973	430,000	February 15, 1984	760,000
February 15, 1974	440,000	August 15, 1984	780,000
August 15, 1974	455,000	February 15, 1985	800,000
February 15, 1975	465,000	August 15, 1985	825,000
August 15, 1975	480,000	February 15, 1986	845,000
February 15, 1976	490,000	August 15, 1986	870,000
August 15, 1976	505,000	February 15, 1987	895,000
February 15, 1977	520,000	August 15, 1987	920,000
August 15, 1977	535,000	February 15, 1988	945,000
February 15, 1978	550,000	August 15, 1988	970,000
August 15, 1978	565,000	February 15, 1989	1,010,000
February 15, 1979	580,000		<u>25,000,000</u>

* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.03), 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 three years before maturity	½%
More than three years but not more than six years before maturity	1%
More than six years but not more than eleven years before maturity	1½%
More than eleven years but not more than sixteen years before maturity	2½%
More than sixteen years but not more than twenty years before maturity	3½%
More than twenty years but not more than twenty-two years before maturity	4½%
More than twenty-two years before maturity	5½%

SCHEDULE 2
DESCRIPTION OF PROJECT

The Project is a four-lane, divided, limited access expressway extending 12.8 kilometers from a point on the boundary between the Tokyo and Kanagawa Prefectures to a point in Yokohama called Higashi-Kanagawa Ramp.

The Project includes the acquisition of the necessary right of way, the relocation of utilities, and the construction of viaducts, bridges, ramps, toll facilities, and lighting and traffic control facilities.

The Project is scheduled for completion by the middle of 1968.

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 February 15, 1961, shall be modified as follows :

(a) By the deletion of Section 3.02.

(b) By the deletion of Section 4.01 and the substitution therefor of the following Section :

“SECTION 4.01. *Withdrawal from the Loan Account.* The Borrower shall be entitled, subject to the provisions of the Loan Agreement, to withdraw from the Loan Account, in such currencies (other than the currency of the Guarantor) as shall be reasonably selected by the Bank, amounts equivalent to a percentage to be agreed upon between the Bank and the Borrower of such amounts as shall have been expended on and after January 1, 1965 for the reasonable cost of goods to be financed under the Loan Agreement, provided that the Bank and the Borrower may make arrangements for advances on account of such withdrawals. Except as shall be otherwise agreed between the Bank and the Borrower, no withdrawal shall be made on account of expenditures in the territories of any country, other than Switzerland, which is not a member of the Bank, or for goods produced in (including services supplied from) such territories.”

(c) By the deletion of Section 4.02.

(d) By the deletion of the first sentence of Section 4.03 and the substitution therefor of the following sentence :

“When the Borrower shall desire to withdraw any amount from the Loan Account, the Borrower shall deliver to the Bank a written application in such form, and containing such statements and agreements, as the Bank shall reasonably request.”

(e) By the deletion of Section 5.04.
