

## II

### *Treaties and international agreements*

*filed and recorded*

*from 12 June 1966 to 21 July 1966*

*No. 623*

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### *Traités et accords internationaux*

*classés et inscrits au répertoire*

*du 12 juin 1966 au 21 juillet 1966*

*N° 623*

No. 623

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**INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT**  
and  
**EAST AFRICAN COMMON SERVICES ORGANIZATION**

**Loan Agreement—*Second East African Railways and Harbours Project* (with related letters and annexed Loan Regulations No. 4). Signed at Washington, on 29 September 1965**

*Official text: English.*

*Filed and recorded at the request of the International Bank for Reconstruction and Development on 21 July 1966.*

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**BANQUE INTERNATIONALE POUR  
LA RECONSTRUCTION ET LE DÉVELOPPEMENT**  
et  
**ORGANISATION DES SERVICES COMMUNS  
DE L'EST AFRICAIN**

**Contrat d'emprunt — *Deuxième projet relatif aux chemins de fer et aux ports de l'Est africain* (avec lettres y relatives et, en annexe, le Règlement n° 4 sur les emprunts). Signé à Washington, le 29 septembre 1965**

*Texte officiel anglais.*

*Classé et inscrit au répertoire à la demande de la Banque internationale pour la reconstruction et le développement le 21 juillet 1966.*

No. 623. LOAN AGREEMENT<sup>1</sup> (*SECOND EAST AFRICAN RAILWAYS AND HARBOURS PROJECT*) BETWEEN THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT AND THE EAST AFRICAN COMMON SERVICES AUTHORITY. SIGNED AT WASHINGTON, ON 29 SEPTEMBER 1965

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AGREEMENT, dated September 29, 1965, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and EAST AFRICAN COMMON SERVICES AUTHORITY (hereinafter called the Borrower).

WHEREAS (A) The Borrower is the principal executive authority of the East African Common Services Organization (hereinafter called the Organization) which was established by an Agreement dated December 9, 1961<sup>2</sup> between the Governments of Tanganyika, Kenya and Uganda for the purpose, *inter alia*, of administering certain services of common interest to the inhabitants of such countries;

(B) The East African Railways and Harbours Administration (hereinafter called the Administration, which expression shall when the text so permits include the General Manager of the Administration) was established by the East African Railways and Harbours Act of 1950 of the East Africa High Commission (hereinafter called the High Commission) as a self-contained service of the High Commission for operating, in accordance with the provisions of that Act, a coordinated and integrated system of transport and harbor facilities in East Africa and was taken over from the High Commission by the Organization;

(C) By a loan agreement dated March 15, 1955<sup>3</sup> between the Bank and the High Commission, the Bank granted a loan (hereinafter called the First Loan) to the High Commission for the purposes of the Administration;

(D) By a guarantee agreement dated March 15, 1955<sup>3</sup> between the United Kingdom of Great Britain and Northern Ireland and the Bank, the United Kingdom agreed to guarantee the First Loan as therein provided; by a letter of guarantee dated May 16, 1955<sup>4</sup> between the Governor of the Colony and

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<sup>1</sup> Came into force on 20 April 1966, upon notification by the Bank to the East African Common Services Authority.

<sup>2</sup> United Nations, *Treaty Series*, Vol. 437, p. 47.

<sup>3</sup> United Nations, *Treaty Series*, Vol. 265, p. 85.

<sup>4</sup> United Nations, *Treaty Series*, Vol. 265, p. 122.

Protectorate of Kenya and the Bank, the Colony and Protectorate of Kenya agreed to guarantee the First Loan as therein provided; by a letter of guarantee dated May 13, 1955<sup>1</sup> between the Governor of the Trust Territory of Tanganyika and the Bank, the Trust Territory of Tanganyika agreed to guarantee the First Loan as therein provided; and by a letter of guarantee dated June 1, 1955<sup>2</sup> between the Acting Governor of the Protectorate of Uganda and the Bank, the Protectorate of Uganda agreed to guarantee the First Loan as therein provided;

(E) The Borrower has become liable for the performance of the obligations of the High Commission under said loan agreement dated March 15, 1955; the Republic of Kenya has become liable for the performance of the obligations of the Colony and Protectorate of Kenya under said letter of guarantee dated May 16, 1955; the United Republic of Tanzania has become liable for the performance of the obligations of the Trust Territory of Tanganyika under said letter of guarantee dated May 13, 1955; and the State of Uganda has become liable for the performance of the obligations of the Protectorate of Uganda under said letter of guarantee dated June 1, 1955;

(F) The Borrower has requested the Bank to make a new loan to it for the purposes of the Administration;

(G) The said loan is guaranteed jointly and severally as to payment of principal, interest and other charges by the Republic of Kenya, the United Republic of Tanzania and the State of Uganda upon the terms of separate Guarantee Agreements of even date herewith;<sup>3</sup> and

(H) The Bank has, on the basis of the foregoing, agreed to make a loan to the Borrower upon the terms and conditions hereinafter set forth;

NOW THEREFORE, the parties hereto hereby agree as follows :

### *Article I*

#### LOAN REGULATIONS; SPECIAL DEFINITION

*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,<sup>4</sup> subject, however, to the qualifications and modifications thereof set forth in Schedule 3 to this Agreement (said Loan Regulations No. 4 as so qualified and modified

<sup>1</sup> United Nations, *Treaty Series*, Vol. 265, p. 118.

<sup>2</sup> United Nations, *Treaty Series*, Vol. 265, p. 122.

<sup>3</sup> See pp. 290, 310 and 318 of this volume.

<sup>4</sup> See p. 358 of this volume.

being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

*Section 1.02.* Except where the context otherwise requires, the following term has the following meaning wherever used in this Agreement or any schedule thereto: the term "the Agreed Plan 1965-67" means the plan of estimated capital and renewals expenditures of the Administration dated June 28, 1965 included as Schedules 2 and 3 of Appendix E of the "Application for I.B.R.D. Loan" submitted to the Bank by the Borrower, with such changes as shall be agreed from time to time between the Bank and the Administration.

## 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 thirty-eight million dollars (\$38,000,000).

*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-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.* 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 February 1 and August 1 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 I 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 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 imported into the territories of the Guarantors 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 Executive Officer of the Communications Committee (Railways and Harbours) of the Organization 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.* The Borrower undertakes that the goods financed out of the proceeds of the Loan will be made available to the Administration for use in the Project as herein provided.

*Section 5.02.* (a) The Borrower shall carry out the Project, or cause the same to be carried out, with due diligence and efficiency and in conformity with sound engineering, financial and railway management principles and practices.

(b) Upon request from time to time by the Bank, the Borrower shall promptly furnish to the Bank the plans, specifications and work schedules for the Project and any material modifications subsequently made therein, in such detail as the Bank shall reasonably request.

(c) The Borrower shall maintain or cause to be maintained 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 financial condition and operations of the Borrower, the Organization and the Administration; shall enable the Bank's representatives to inspect the Project, the properties and operations of the Administration, the goods and any relevant records and documents; and shall furnish or cause to be furnished 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 financial condition and operations of the Borrower, the Organization and the Administration.

(d) The Borrower shall at all times cause the Administration to manage its affairs, plan the development of its properties and maintain its financial position all in accordance with sound engineering, railway management, financial and business principles and practices and under the supervision of experienced and competent management; and shall cause the plant, equipment and property of the Administration to be maintained and all necessary renewals and repairs thereof to be made, all in accordance with sound engineering and railway management practices.

(e) The Borrower shall cause the Administration to have its financial statements (balance sheet and related statement of revenues and expenses) certified annually by an auditor acceptable to the Bank, and to transmit to the Bank certified copies of such statements promptly after their preparation and, except as shall be otherwise agreed by the Bank, not later than six months after the close of the Administration's fiscal year.

*Section 5.03.* (a) The Bank and the Borrower shall cooperate fully to assure that the purposes of the Loan shall 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 :

- (i) furnish to the Bank information with respect to financial and economic conditions in the territories of the Guarantors and the international balance of payments position of the Guarantors; and
- (ii) promptly inform the Bank or cause the Bank to be informed 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 5.04.* The Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower or of the Administration or of the Organization (including any funds maintained by the Organization), as the case may be, 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 5.05.* The Borrower shall pay or cause to be paid all taxes, if any, imposed under the laws of the Guarantors or laws in effect in the territories of the Guarantors on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreements 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, under the laws of any one of such respective countries, when such Bond is beneficially owned by an individual or corporate resident of that country.

*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 this Agreement, the Guarantee Agreements or the Bonds.

*Section 5.07.* Except as shall be otherwise agreed between the Bank and the Borrower, the Borrower shall insure or cause to be insured with responsible insurers all goods financed with the proceeds of the Loan. Such insurance shall cover such marine, transit and other risks incident to delivery of the goods into the territories of the Guarantors, and shall be for such amounts, as shall be consistent with sound commercial practice. Such insurance shall be payable in freely convertible currencies or in the currency in which the cost of the goods insured thereunder shall be payable.



*Section 5.08.* Except as the Bank and the Borrower shall otherwise agree, the Borrower or the Administration shall obtain title to all goods financed out of the proceeds of the Loan free and clear of all encumbrances.

*Section 5.09.* The Borrower shall cause the Administration to take from time to time all necessary or desirable steps (including, but without limitation, adjustments in its rates and fares) as shall be required to provide revenues sufficient to cover (i) all operating expenses of the Administration (including adequate provision for the depreciation of fixed assets and for accruing pension liabilities) and (ii) interest payments on debt charged upon and payable out of the Railways and Harbours Fund maintained by the Organization for the Administration and to provide in addition a reasonable return on the Administration's net fixed assets.

*Section 5.10.* Except as the Bank shall otherwise agree, the Borrower shall not incur any indebtedness for purposes of the Administration, and shall take all necessary action to prevent the Administration and others from incurring indebtedness for purposes of the Administration, if any part of such indebtedness is or can be made repayable (other than on a default by the borrower) prior to December 31, 1971 or if the terms of such indebtedness require sinking fund or other payments to be made prior to December 31, 1971; provided, however, that this Section shall not apply to the incurring of indebtedness in the ordinary course of business which matures by its terms within one year from the date on which it is originally incurred or on demand. For purposes of this Section, indebtedness shall be deemed to be incurred on the date of execution and delivery of a contract or loan agreement providing for the incurring of such indebtedness.

*Section 5.11.* The Borrower shall cause the Administration to formulate and carry out a program of such renewals, betterments and additions for the four years commencing on January 1, 1968 as may be essential to maintain the operating efficiency of the Administration, to keep its properties in good repair and to service growing traffic and shall cause the Administration to submit such program to the Bank for the Bank's approval.

*Section 5.12.* Except as the Bank shall otherwise agree, the Borrower shall prohibit the Administration from making any capital expenditures prior to December 31, 1971 which are not included in the Agreed Plan 1965-67 or the program as approved by the Bank referred to in Section 5.11 of this Agreement.

## 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) or for the purposes of paragraph (j) 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.

*Section 6.02.* The following is specified as an additional event for the purposes of Section 5.02 (j) of the Loan Regulations : a material change shall have been made in the Constitution of the East African Common Services Organization or in the organization, powers or responsibilities of the Administration without the prior approval of the Bank, or one or more of the Guarantors shall have withdrawn from such Organization or shall have defaulted in any obligation under the Agreement dated December 9, 1961 referred to in Recital (A) of this Agreement.

### *Article VII*

#### MISCELLANEOUS

*Section 7.01.* The Closing Date shall be June 30, 1969, or such other date as may from time to time be agreed between the Bank and the Borrower.

*Section 7.02.* A date sixty 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 Bank :

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

Alternative address for cablegrams and radiograms :

Intbafrad  
Washington, D.C.

For the Borrower :

East African Common Services Authority  
Secretary General East African Common Services Organization  
P.O. Box 30005  
Nairobi, Kenya

Alternative address for cablegrams and radiograms :

Admin  
Nairobi

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

East African Common Services Authority :

By D. OMARI  
Authorized Representative

### 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>
August 1, 1972 . . . . .	\$405,000	August 1, 1984 . . . . .	\$775,000
February 1, 1973 . . . . .	415,000	February 1, 1985 . . . . .	800,000
August 1, 1973 . . . . .	430,000	August 1, 1985 . . . . .	820,000
February 1, 1974 . . . . .	440,000	February 1, 1986 . . . . .	845,000
August 1, 1974 . . . . .	450,000	August 1, 1986 . . . . .	865,000
February 1, 1975 . . . . .	465,000	February 1, 1987 . . . . .	890,000
August 1, 1975 . . . . .	475,000	August 1, 1987 . . . . .	915,000
February 1, 1976 . . . . .	490,000	February 1, 1988 . . . . .	940,000
August 1, 1976 . . . . .	505,000	August 1, 1988 . . . . .	965,000
February 1, 1977 . . . . .	515,000	February 1, 1989 . . . . .	990,000
August 1, 1977 . . . . .	530,000	August 1, 1989 . . . . .	1,020,000
February 1, 1978 . . . . .	545,000	February 1, 1990 . . . . .	1,045,000
August 1, 1978 . . . . .	560,000	August 1, 1990 . . . . .	1,075,000
February 1, 1979 . . . . .	575,000	February 1, 1991 . . . . .	1,105,000
August 1, 1979 . . . . .	590,000	August 1, 1991 . . . . .	1,135,000
February 1, 1980 . . . . .	610,000	February 1, 1992 . . . . .	1,165,000
August 1, 1980 . . . . .	625,000	August 1, 1992 . . . . .	1,200,000
February 1, 1981 . . . . .	645,000	February 1, 1993 . . . . .	1,230,000
August 1, 1981 . . . . .	660,000	August 1, 1993 . . . . .	1,265,000
February 1, 1982 . . . . .	680,000	February 1, 1994 . . . . .	1,300,000
August 1, 1982 . . . . .	695,000	August 1, 1994 . . . . .	1,335,000
February 1, 1983 . . . . .	715,000	February 1, 1995 . . . . .	1,375,000
August 1, 1983 . . . . .	735,000	August 1, 1995 . . . . .	1,435,000
February 1, 1984 . . . . .	755,000		

\* 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>Premiums</i>
Not more than four years before maturity . . . . .	½ of 1%
More than four years but not more than eight years before maturity . . . . .	1%
More than eight years but not more than fourteen years before maturity . . . . .	1 ½%
More than fourteen years but not more than twenty years before maturity . . . . .	2 ½%
More than twenty years but not more than twenty-six years before maturity . . . . .	3 ½%
More than twenty-six years but not more than twenty-eight years before maturity . . . . .	4 ½%
More than twenty-eight years before maturity . . . . .	5 ½%

## SCHEDULE 2

## DESCRIPTION OF PROJECT

The Project is the capital development program of the East African Railways and Harbours Administration for the three year period commencing January 1, 1965 and the acquisition of 424 goods wagons delivered to the Administration in 1964 and 1965. The capital development program is designed to modernize, improve and expand the Administration's facilities and equipment and to increase the efficiency and transport capacity of its railways and harbors in order to meet increasing traffic demands through 1967; the program is more fully described in Schedules 2 and 3 of Appendix E of the "Application for I.B.R.D. Loan" referred to in Section 1.02 of the Loan Agreement.

The Project includes the acquisition and operation of diesel locomotives, freight cars, passengers cars, shop tools, road transport equipment and lake and harbor craft and equipment; the acquisition of component parts for rolling stock and other railway materials; the renewal of track; the construction of wharves, quays and jetties and the improvement of telecommunications.

## 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 deemed to be modified as follows :

(a) By the deletion (except in Section 8.03 and in Schedule 3) of the words "Guarantor" and "Guarantee Agreement" wherever the same shall occur and the substitution therefor respectively of the words "Guarantors" and "Guarantee Agreements". Wherever the context shall require there shall be made all such grammatical changes as shall be consequential upon the aforesaid deletions and substitutions.

(b) By the deletion of the last sentence of Section 4.01 and the substitution therefor of the following sentence, namely :

“ Except as shall be otherwise agreed between the Bank and the Borrower, no withdrawals shall be made on account of (a) expenditures prior to May 1, 1964 or (b) expenditures in the currency of Kenya, Tanzania or Uganda or for goods produced in (including services supplied from) the territories of Kenya, Tanzania or Uganda or (c) expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in (including services supplied from) such territories.”

(c) By the deletion of subparagraphs (b), (c), (g) and (h) of Section 5.02 and the substitution therefor of the following subparagraphs, namely :

“(b) A default shall have occurred in the payment of principal or interest or any other payment required under any other loan agreement between the Bank and the Borrower or between the Bank and the East Africa High Commission or under any loan agreement or under any guarantee agreement between Kenya and the Bank or between the Colony and Protectorate of Kenya and the Bank or under any loan agreement or under any guarantee agreement between Tanzania and the Bank or between the Protectorate of Tanganyika and the Bank or under any loan agreement or under any guarantee agreement between Uganda and the Bank or between the Protectorate of Uganda and the Bank or under any bond delivered pursuant to any such agreement.

“(c) A default shall have occurred in the performance of any other covenant or agreement to be performed by the Borrower or any of the Guarantors under the Loan Agreement, the Guarantee Agreements or the Bonds, or under the agreement dated March 15, 1955 between the Bank and the East Africa High Commission, the bonds issuable pursuant to such agreement, the letter of guarantee dated May 16, 1955 between the Governor of the Colony and Protectorate of Kenya and the Bank, the letter of guarantee dated May 13, 1955 between the Governor of the Trust Territory of Tanganyika and the Bank or the letter of guarantee dated June 1, 1955 between the Acting Governor of the Protectorate of Uganda and the Bank.

“(g) Any one or more of the Guarantors shall have been suspended from membership in or ceased to be a member of the Bank.

“(h) Any one or more of the Guarantors shall have ceased to be a member of the International Monetary Fund or shall have become ineligible to use the resources of said Fund under Section 6 of Article IV of the Articles of Agreement of said Fund or shall have been declared ineligible to use said resources under Section 5 of Article V, Section 1 of Article VI or Section 2 (a) of Article XV of the Articles of Agreement of said Fund.”

(d) By the deletion of Section 6.01 and the substitution therefor of the following new Section, namely :

“SECTION 6.01. *Delivery of Bonds.* The Borrower shall execute and deliver Bonds representing the principal amount of the Loan and having the respective guarantees of the Guarantors endorsed thereon, all as hereinafter in this Article provided.”

(e) By the deletion of the fifth sentence of Section 6.07 and the substitution therefor of the following new sentence, namely :

“ The forms of the separate guarantees to be endorsed by the respective Guarantors upon the Bonds shall be substantially as set forth in Schedule 3 to these Regulations. ”

(f) By the deletion in the last sentence of Section 6.07 of the word “ guarantee ” and the substitution therefor of the word “ guarantees ”.

(g) By the deletion of Section 6.12 (b) and the substitution therefor of the following new subsection, namely :

“(b) The Guarantees on the Bonds shall be signed in the name and on behalf of Kenya or of Tanzania or of Uganda (as the case may be) by their respective authorized representative or representatives designated in the Guarantee Agreements for the purposes of this Section. The signature of any such representative may be a facsimile signature if the guarantee involved is also countersigned manually by an authorized representative of Kenya or of Tanzania or of Uganda (as the case may be). If any authorized representative of Kenya or of Tanzania or of Uganda (as the case may be) whose manual or facsimile signature shall be affixed to any such guarantee shall cease to be such authorized representative, the Bond on which such guarantee is endorsed may nevertheless be delivered under the Loan Agreement and such guarantee shall be valid and binding on Kenya or on Tanzania or on Uganda (as the case may be) as though the person whose manual or facsimile signature shall have been affixed to such guarantee had not ceased to be such authorized representative. ”

(h) By the deletion in Section 6.19 of the words “ that the guarantee endorsed thereon constitutes a valid and binding obligation of the Guarantor in accordance with its terms ” and the substitution therefor of the words “ that the guarantees endorsed thereon constitute valid and binding obligations of the respective Guarantors in accordance with their terms. ”

(i) By the deletion of Section 7.02 and the substitution therefor of the following new Section, namely :

“SECTION 7.02. *Obligations of the Guarantors.* The obligations of Kenya under the Kenya Guarantee Agreement and of Tanzania under the Tanzania Guarantee Agreement and of Uganda under the Uganda Guarantee Agreement shall be several obligations and shall not be discharged except by performance and then only to the extent of such performance. Such respective obligations shall not be subject to any prior notice to, demand upon or action against the Borrower or Kenya or Tanzania or Uganda or to any prior notice to or demand upon Kenya or Tanzania or Uganda with regard to any default by any of them or by the Borrower, and shall not be impaired by any of the following : any extension of time, forbearance or concession given to any of them or to the Borrower; any assertion of, or failure to assert, or delay in asserting, any right, power or remedy against any of them or the Borrower or in respect of any security for the Loan; any modification or amplification of the provisions of the Loan Agreement or the Kenya Guarantee Agreement or the Tanzania Guarantee Agreement or the Uganda Guarantee Agreement contemplated by the terms thereof respectively; any failure of the Borrower or the

Administration to comply with any requirement of any law, regulation or order of Kenya or of Tanzania or of Uganda or of any political subdivision or agency of Kenya or of Tanzania or of Uganda.”

(j) By the deletion of the first sentence of subsection (c) of Section 7.04 and the substitution therefor of the following new sentence, namely :

“ The Arbitral Tribunal shall consist of three arbitrators appointed as follows : one arbitrator shall be appointed by the Bank; a second arbitrator shall be appointed by the Borrower, Kenya, Tanzania and Uganda or, if they shall not agree, by the Borrower; and the third arbitrator (hereinafter sometimes called the Umpire) shall be appointed by agreement of the parties or, if they shall not agree, by the President of the International Court of Justice or, failing appointment by him, by the Secretary-General of the United Nations. ”

(k) By the deletion of Section 8.03 and the substitution therefor of the following new Section, namely :

“ SECTION 8.03. *Action on Behalf of the Guarantors.* Any action required or permitted to be taken, and any documents required or permitted to be executed, under the Kenya Guarantee Agreement on behalf of Kenya or under the Tanzania Guarantee Agreement on behalf of Tanzania or under the Uganda Guarantee Agreement on behalf of Uganda may be taken or executed by the representative of Kenya, Tanzania or Uganda, as the case may be, designated in such Guarantee Agreement for the purposes of this Section or any person thereunto authorized in writing by him. Any modification or amplification of the provisions of any of the Guarantee Agreements may be agreed to on behalf of Kenya, Tanzania or Uganda, as the case may be, by written instrument executed on behalf of Kenya, Tanzania or Uganda, as the case may be, by the representative so designated in such Guarantee Agreement or by any person thereunto authorized in writing by him; provided that, in the opinion of such representative, such modification or amplification is reasonable in the circumstances and will not substantially increase the obligations of Kenya, Tanzania or Uganda, as the case may be, under such Guarantee Agreement. The Bank may accept the execution by such representative or other person of any such instrument as conclusive evidence that in the opinion of such representative any modification or amplification of the provisions of such Guarantee Agreement effected by such instrument is reasonable in the circumstances and will not substantially increase the obligations of Kenya, Tanzania or Uganda, as the case may be, thereunder. ”

(l) By the deletion of subparagraphs (i) and (ii) of Section 9.02 (b) and the substitution therefor of the following subparagraphs, namely :

“ (i) that the Guarantee Agreements have been duly authorized or ratified by, and executed and delivered on behalf of, the Guarantors respectively and constitute valid and binding obligations of the Guarantors respectively in accordance with their terms;

“ (ii) that the guarantees on the Bonds when executed and delivered in accordance with the Guarantee Agreements will constitute valid and binding obligations of the Guarantors respectively in accordance with the terms of the Guarantee

Agreements and that, except as stated in such opinion, no signatures or formalities other than those provided for in the Guarantee Agreements are required for that purpose; and”

(m) By the addition of the following definitions to paragraph 1 of Section 10.01, namely:

“The term ‘Kenya’ means the Republic of Kenya.

“The term ‘Tanzania’ means the United Republic of Tanzania.

“The term ‘Uganda’ means the State of Uganda.”

(n) By the deletion of paragraph 5 of Section 10.01 and the substitution thereof of the following new paragraph, namely:

“5. The terms ‘Kenya Guarantee Agreement’, ‘Tanzania Guarantee Agreement’ and ‘Uganda Guarantee Agreement’ mean the separate agreements between Kenya, Tanzania and Uganda, respectively, and the Bank providing for the guarantee of the Loan, as amended from time to time; and such terms include these Regulations as thus made applicable, all agreements supplemental to such agreements and all schedules to such agreements.

“The term ‘Guarantee Agreements’ means the Kenya Guarantee Agreement, the Tanzania Guarantee Agreement and the Uganda Guarantee Agreement, and includes any or all of such agreements as the context may require.

“The term ‘Guarantors’ means Kenya and Tanzania and Uganda and includes any or all of them as the context may require.”

(o) By the deletion of paragraph 6 of Section 10.01 and the substitution thereof of the following new paragraph, namely:

“6. The term ‘Borrower’ means the party to the Loan Agreement to which the Loan is made.”

(p) By the deletion of paragraph 13 of Section 10.01 and the substitution thereof of the following new paragraph, namely:

“13. Where used in Section 3.01 of the Kenya Guarantee Agreement, the term ‘external debt’ means any debt payable in any medium other than currency of Kenya, whether such debt is or may become payable absolutely or at the option of the creditor in such other medium, where used in Section 3.01 of the Tanzania Guarantee Agreement, the term ‘external debt’ means any debt payable in any medium other than currency of Tanzania, whether such debt is or may become payable absolutely or at the option of the creditor in such other medium, and, where used in Section 3.01 of the Uganda Guarantee Agreement, the term ‘external debt’ means any debt payable in any medium other than the currency of Uganda, whether such debt is or may become payable absolutely or at the option of the creditor in such other medium.”

(q) By the deletion of the first sentence of the second paragraph of each of the Forms of Bond set forth in Schedule 1 and Schedule 2, and the substitution thereof, in each such Schedule, of the sentence following, namely:

“This Bond is one of an authorized issue of bonds in various currencies equivalent to an aggregate principal amount of \_\_\_\_\_, known as the



Guaranteed Serial Bonds of [the Borrower] (hereinafter called the Bonds), issued or to be issued under a Loan Agreement dated \_\_\_\_\_ between International Bank for Reconstruction and Development (hereinafter called the Bank) and [the Borrower] and guaranteed by the Republic of Kenya, the United Republic of Tanzania and the State of Uganda in accordance with the terms of separate Guarantee Agreements with the Bank dated \_\_\_\_\_ .”

(r) By the deletion of the eighth paragraph of the Form of Bond set forth in Schedule 1 and the seventh paragraph of the Form of Bond set forth in Schedule 2 and the substitution therefor, in each such Schedule, of the following paragraph, namely :

“ The principal of the Bonds, the interest accruing thereon and the premium, if any, on the redemption thereof shall be paid without deduction for and free from any taxes, imposts, levies, fees or duties of any nature now or at any time hereafter imposed under the laws of Kenya, or laws in effect in its territories, or of Tanzania, or laws in effect in its territories, or of Uganda, or laws in effect in its territories; *provided, however, that the provisions of this paragraph shall not apply to the taxation of payments made under the provisions of any Bond (a) under the laws of Kenya or laws in effect in its territories, to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of Kenya, or (b) under the laws of Tanzania or laws in effect in its territories, to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of Tanzania, or (c) under the laws of Uganda or laws in effect in its territories, to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of Uganda.*”

(s) By the deletion of the Form of Guarantee set forth in Schedule 3 and the substitution therefor of the following Form of Guarantee, namely :

“ [NAME OF GUARANTOR], for value received, as a primary obligor and not as surety merely, hereby absolutely and unconditionally guarantees, and pledges its full faith and credit for, the due and punctual payment of the principal and redemption price of the within Bond and the interest thereon, free from taxes as therein provided and free from all restrictions imposed under the laws of [NAME OF GUARANTOR] or laws in effect in its territories, prior notice to, demand upon or action against the obligor on said Bond or any other guarantor or the undersigned being waived.

“ [NAME OF GUARANTOR] hereby agrees that it will affix a similar guarantee on any Bond or Bonds which shall be duly issued in exchange or substitution for or in replacement of the within Bond.

[NAME OF GUARANTOR]

By .....  
Authorized Representative”

Dated .....

LETTERS RELATING TO THE LOAN<sup>1</sup> AND GUARANTEE AGREEMENTS<sup>2</sup>

*[For the text of these letters, see p. 298 of this volume.]*

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.]*

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<sup>1</sup> See p. 328 of this volume.

<sup>2</sup> See pp. 290, 310 and 318 of this volume.