

No. 10169

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

**Loan Agreement—*Education Project* (with annexed General
Conditions Applicable to Loan and Guarantee
Agreements). Signed at Washington on 23 May 1969**

Authentic text: English.

*Registered by the International Bank for Reconstruction and Development on
7 January 1970.*

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

**Contrat d'emprunt—*Projet relatif à l'enseignement* (avec,
en annexe, les Conditions générales applicables aux
contrats d'emprunt et de garantie). Signé à Washington
le 23 mai 1969**

Texte authentique: anglais.

*Enregistré par la Banque internationale pour la reconstruction et le développe-
ment le 7 janvier 1970.*

LOAN AGREEMENT ¹

AGREEMENT, dated May 23, 1969, between MALAYSIA (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS the Borrower has requested the Bank to assist in the financing of an education project consisting, *inter alia*, of the construction, furnishing and equipment of schools in West Malaysia, Sabah and Sarawak;

WHEREAS the Borrower has approved and transmitted to the Bank a policy paper entitled "Assurances to I.B.R.D. in Connection with Education Project" (hereinafter called the Education Policy Paper) and setting forth certain policies which are to direct and govern the development of education in the territories of the Borrower;

WHEREAS the Bank has agreed, on the basis *inter alia* of the foregoing, to make a loan to the Borrower on the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

Article I

GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated January 31, 1969, ² with the same force and effect as if they were fully set forth herein (said General Conditions Applicable to Loan and Guarantee Agreements of the Bank being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth.

¹ Came into force on 16 September 1969, upon notification by the Bank to the Government of Malaysia.

² See p. 124 of this volume.

Article II

THE LOAN

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in this Loan Agreement set forth or referred to, an amount in various currencies equivalent to eight million eight hundred thousand dollars (\$ 8,800,000).

Section 2.02. (a) 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.

(b) 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, this Loan Agreement and in accordance with the allocation of the proceeds of the Loan set forth in Schedule 1 to this Agreement, as such allocation shall be modified from time to time pursuant to the provisions of such Schedule or by further agreement between the Borrower and the Bank.

Section 2.03. (a) The Borrower shall be entitled to withdraw from the Loan Account in respect of the reasonable cost of goods or services required for the Project and to be financed under this Loan Agreement:

- (i) such amounts as shall have been paid (or, if the Bank shall so agree, shall be required to meet payments to be made) for goods or services included in Category II of the allocation of the proceeds of the Loan referred to in Section 2.02 of this Agreement; and
- (ii) the equivalent of thirty-four per cent (34 %) of such amounts as shall have been paid (or, if the Bank shall so agree, shall be required to meet payments to be made) for goods or services included in Category I of said allocation of the proceeds of the Loan, provided, however, that if there shall be an increase in the estimate of such payments for goods or services included in Category I, the Bank may by notice to the Borrower adjust the stated percentage applicable to such Category as required in order that withdrawals of the amount of the Loan then allocated to such Category and not withdrawn may continue *pro rata* with the payments remaining to be made for goods or services included in such Category.

(b) The Borrower shall also be entitled to withdraw from the Loan Account such amounts as shall be required to meet payments to be made for interest and other charges on the Loan accrued on or before July 31, 1974 or such other date as may be agreed between the Borrower and the Bank.

Section 2.04. It is hereby agreed, pursuant to Section 5.01 of the General Conditions, that withdrawals from the Loan Account under Category I of the allocation of the proceeds of the Loan referred to in Section 2.02 of this Agreement may be made on account of payments in the currency of the Borrower, or for goods produced in, or services supplied from, the territories of the Borrower.

Section 2.05. 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 withdrawn from time to time.

Section 2.06. The Borrower shall pay interest at the rate of six and one-half per cent ($6\frac{1}{2}$ %) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

Section 2.07. Interest and other charges shall be payable semi-annually on February 1 and August 1 in each year.

Section 2.08. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 2 to this Agreement.

Article III

USE OF PROCEEDS OF LOAN

Section 3.01. The Borrower shall apply the proceeds of the Loan in accordance with the provisions of this Loan Agreement to expenditures on the Project, described in Schedule 3 to this Agreement.

Section 3.02. Except as the Bank shall otherwise agree, the goods and services to be financed out of the proceeds of the Loan shall be procured on the basis of international competitive bidding in accordance with the *Guidelines for Procurement under World Bank Loans and IDA Credits*, published by the Bank in February 1968, and in accordance with such other procedures supplementary thereto as are set forth in Schedule 4 to this Agreement or as shall be agreed between the Borrower and the Bank.

Section 3.03. Except as the Bank shall otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Loan to be used exclusively in carrying out the Project.

Article IV

BONDS

Section 4.01. If and as the Bank shall from time to time request, the Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in Article VIII of the General Conditions.

Section 4.02. The Minister of Finance of the Borrower and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 8.10 of the General Conditions.

Article V

PARTICULAR COVENANTS

Section 5.01. (a) The Borrower shall carry out the Project with due diligence and efficiency and in accordance with sound technical, economic, financial and administrative standards, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the purpose.

(b) The Borrower shall employ in its Ministry of Education a Project Director, acceptable to the Bank, who shall be responsible to the Borrower's Minister of Education for the proper execution and supervision of the Project and who shall have duties and responsibilities mutually satisfactory to the Borrower and the Bank.

(c) In carrying out Part A of the Project, the Borrower shall employ contractors acceptable to the Bank and on terms and conditions mutually agreed between the Borrower and the Bank.

(d) In carrying out Part B of the Project, the Borrower shall employ suitably qualified and experienced teachers acceptable to and with duties and responsibilities mutually satisfactory to the Borrower and the Bank for the purpose of providing technical assistance in agricultural training to the technical secondary and agricultural schools in West Malaysia included in Part A of the Project.

(e) The Borrower shall cause its Public Works Department in West Malaysia to assign a qualified and experienced civil engineer for the purpose of supervising the structural work in the design of the school buildings included in the Project.

(f) Except as the Bank shall otherwise agree, the Borrower shall furnish or cause to be furnished to the Bank for its approval promptly upon their preparation the plans, specifications, contracts and work schedules for the construction included in the Project and the lists of instructional equipment and furniture included therein, and any subsequent material modifications thereof, in such detail as the Bank shall reasonably request.

Section 5.02. The Borrower shall cause the buildings, furniture and equipment of the educational institutions included in the Project to be adequately maintained and shall cause all necessary repairs and renewals thereof to be made.

Section 5.03. (a) The Borrower shall cause the educational institutions included in the Project to be so operated as to promote the educational objectives of the Borrower and to be provided with qualified teachers and administrators in adequate numbers.

(b) The Borrower shall strengthen the Education Planning and Research Division and the Agricultural Section in the Technical Education Division in its Ministry of Education by employing therein an adequate number of qualified and experienced specialists in education planning and in agricultural education and training, respectively.

Section 5.04. The Borrower shall: (i) maintain or cause to be maintained such records as shall be adequate to identify the goods and services 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, in respect of the Project, of the ministries or departments of the Borrower responsible for the construction, operation and maintenance of the Project or any part thereof; (ii) enable the Bank's representatives to inspect the Project, the operation thereof, the goods and services financed under the Loan Agreement 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 services, the operation of the educational system of the Borrower, the programs for educational development in its territories, and the administration and operation, in respect of the Project, of the ministries or departments of the Borrower responsible for the construction, operation and maintenance of the Project or any part thereof.

Section 5.05. (a) The Borrower and the Bank shall cooperate fully with each other 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 either shall reasonably request with regard to the general status of the Loan. On the part of the Borrower, such information shall include information with respect to financial and economic conditions in the territories of the Borrower and the international balance of payments position of the Borrower.

(b) The Borrower 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 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.

(c) The Borrower shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Borrower for purposes related to the Loan.

Section 5.06. It is the mutual intention of the Borrower 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 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 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; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term “assets of the Borrower” as used in this Section includes: (i) assets of the Borrower; (ii) assets of any statutory authority of the Borrower, including assets of any state or political subdivision of the Borrower; (iii) assets of any agency of the Borrower including the Bank Negara Malaysia or any other institution at any time performing the functions of a central bank for the Borrower; and (iv) any right, interest or share of the Borrower in the Currency Fund and Currency Surplus Fund administered under the *Malaya British Borneo Currency Agreement, 1960*.

Section 5.07. 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, and free from all restrictions, imposed under the laws of the Borrower 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 Borrower.

Section 5.08. The Loan Agreement and the Bonds shall be free from any taxes that shall be imposed under the laws of the Borrower or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof, and the Borrower shall pay all such 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.

Section 5.09. The Borrower undertakes to make adequate provision through its Government Stores Insurance Fund or otherwise for the insurance of the imported goods to be financed out of the proceeds of the Loan against marine, transit and other hazards incident to acquisition, transportation and delivery thereof to the place of use or installation and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower to replace or repair such goods.

Article VI

REMEDIES OF THE BANK

Section 6.01. If any event specified in Section 7.01 of the General Conditions shall occur and shall continue for the period, if any, therein set forth, then at any subsequent time during the continuance thereof, the Bank, at its option, may by notice to the Borrower declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately together with the interest and other charges thereon and upon any such declaration such principal, interest and charges shall become due and payable immediately, anything to the contrary in this Loan Agreement or in the Bonds notwithstanding.

Article VII

MISCELLANEOUS

Section 7.01. The Closing Date shall be December 31, 1974 or such other date as shall be agreed between the Borrower and the Bank.

Section 7.02. The date of August 20, 1969 is hereby specified for the purposes of Section 11.04 of the General Conditions.

Section 7.03. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 10.03 of the General Conditions.

Section 7.04. The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Borrower:

The Treasury
Kuala Lumpur
Malaysia

Alternative address for cables:

Treasury
Kuala Lumpur

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:

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 to be delivered in the District of Columbia, United States of America, as of the day and year first above written.

Malaysia:

By K. THARMARATNAM
Authorized Representative

International Bank for Reconstruction and Development:

By Simon ALDEWERELD
Vice President

SCHEDULE 1

ALLOCATION OF PROCEEDS OF LOAN

<i>Category</i>	<i>Amounts Expressed in Dollar Equivalent</i>
I. Civil works and locally manufactured furniture and instructional equipment	3,720,000
II. Imported furniture and instructional equipment	3,200,000
III. Interest and other charges on the Loan	1,400,000
IV. Unallocated	480,000
TOTAL	8,800,000

REALLOCATION UPON CHANGE IN COST ESTIMATES

1. If the estimate of the cost of the items included in any of the Categories I to III shall decrease, the amount of the Loan then allocated to, and no longer required for, such Category will be reallocated by the Bank to Category IV.

2. If the estimate of the cost of the items included in any of the Categories I to III shall increase, an amount equal to the portion, if any, of such increase to be

financed out of the proceeds of the Loan (or, in the case of Category I, an amount equal to 34 % of such increase) will be allocated by the Bank, at the request of the Borrower, to such Category from Category IV, subject, however, to the requirements for contingencies, as determined by the Bank, in respect of the cost of the items in the other Categories.

SCHEDULE 2

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, 1979	170,000	August 1, 1987	280,000
February 1, 1980	175,000	February 1, 1988	290,000
August 1, 1980	180,000	August 1, 1988	300,000
February 1, 1981	185,000	February 1, 1989	310,000
August 1, 1981	190,000	August 1, 1989	320,000
February 1, 1982	200,000	February 1, 1990	330,000
August 1, 1982	205,000	August 1, 1990	340,000
February 1, 1983	210,000	February 1, 1991	350,000
August 1, 1983	220,000	August 1, 1991	365,000
February 1, 1984	225,000	February 1, 1992	375,000
August 1, 1984	230,000	August 1, 1992	390,000
February 1, 1985	240,000	February 1, 1993	400,000
August 1, 1985	250,000	August 1, 1993	415,000
February 1, 1986	255,000	February 1, 1994	425,000
August 1, 1986	265,000	August 1, 1994	435,000
February 1, 1987	275,000		

* To the extent that any portion of the Loan is repayable in a currency other than dollars (see General Conditions, Section 4.02), 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 portion of the principal amount of the Loan pursuant to Section 3.05 (b) of the General Conditions or on the redemption of any Bond prior to its maturity pursuant to Section 8.15 of the General Conditions :

<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 ¼ %
More than six years but not more than eleven years before maturity	2 ¼ %
More than eleven years but not more than sixteen years before maturity . . .	3 ¾ %
More than sixteen years but not more than twenty-one years before maturity	5 %
More than twenty-one years but not more than twenty-three years before maturity	6 %
More than twenty-three years before maturity	6 ½ %

SCHEDULE 3

DESCRIPTION OF THE PROJECT

The Project consists of the following :

A. The construction, furnishing and equipment of :

In West Malaysia

1. five new secondary technical schools ;
2. six new vocational schools ;
3. three new agricultural schools ;

In Sabah

4. one new primary teacher-training college ;
5. three new general secondary schools ;
6. extensions to two general secondary schools ;

In Sarawak

7. extensions to one vocational school.

The specific educational institutions to be included in the Project, the specific locations thereof and the total full-day student enrollment levels thereat shall be those shown in the Exhibit to this Schedule, subject to modification by further agreement between the Borrower and the Bank.

B. Technical assistance (40 man years) and overseas fellowships (27 man years) to support the secondary technical and agricultural schools in West Malaysia referred to above.

The Project is expected to be completed by June 30, 1976.

SCHEDULE 3

EXHIBIT

LIST OF EDUCATIONAL INSTITUTIONS

<i>Location</i>	<i>Number of students</i>	<i>Number of boarders</i>	<i>Number of staff housing units</i>	<i>Approx. gross areas of construction (000's sq. feet)</i>
<i>A. In West Malaysia</i>				
1. Five new secondary technical schools				
Ipoh	640	160	8	78.7
Johore Bahru	640	160	8	80.1
Seremban	640	160	8	78.7
Alor Star	640	160	8	80.1
Malacca	640	160	8	80.1
2. Six new secondary vocational schools				
Kuala Lumpur	640	160	8	98.4
Muar	640	160	8	100.1
Seremban	640	160	8	98.4
Alor Star	640	160	8	98.4
Kangar	640	160	8	89.1
Kuala Trengganu	640	160	8	89.4
3. Three new secondary agricultural schools				
Parit	300	300	42	92.3
Ayer Itam Johore	300	300	42	92.3
Kuala Brang	300	300	42	91.3
<i>B. In Sabah</i>				
1. One new primary teacher training college				
Sandakan	192	64	7	30.6
2. Three new general secondary schools				
Jesselton	600	—	10	41.7
Sandakan	800	164	14	73.3
Tuaran	480	—	5	28.6

<i>Location</i>	<i>Number of students</i>	<i>Number of boarders</i>	<i>Number of staff housing units</i>	<i>Approx. gross areas of construction (000's sq. feet)</i>
3. Extensions to two general secondary schools				
Sipitang	200 to 560	60 to 164	14	41.0
Kota Belud	480 to 800	None to 164	10	61.9
C. <i>In Sarawak</i>				
1. Extensions to one secondary vocational school				
Kuching	200 to 413	None to 100	8	51.2

SCHEDULE 4

PROCUREMENT

1. *Contracts for Construction Works*

(a) For purposes of inviting bids, the construction works will be grouped, whenever practicable, into such packages as are proposed by the Borrower. Any contractor will be permitted to bid for one or more packages.

(b) Prior to inviting bids, the Borrower shall send to the Bank for review and comment such packages of works proposed to be let, the estimated costs thereof, a description of the method to be used for obtaining bids in respect of each one, including the prequalification procedures, criteria to be used therefor, and the proposed advertising coverage, and the draft bidding documents and model contracts.

2. *Contracts for Instructional Equipment and Furniture*

(a) Lists for all items of instructional equipment and furniture required for the Project will be prepared, showing the specifications and estimated unit and total price of each item. Items will be grouped to permit bulk procurement consistent with sound technical and procurement practices.

(b) Prior to inviting bids, the Borrower shall send to the Bank for review and comment the lists mentioned in paragraph 2 (a) above, a description of the

method to be used for obtaining bids in respect of each list, including the prequalification procedures, criteria to be used, and the proposed advertising coverage, and the draft bidding documents and model contracts.

3. *Comparison of Bids*

Pursuant to paragraph 2.8 of the *Guidelines for Procurement under World Bank Loans and IDA Credits*, published by the Bank in February 1968, (hereinafter called the Guidelines), we agree that where bids are submitted by Malaysian suppliers of equipment, materials or supplies, the following rules shall be observed for the purpose of comparing any such bid to any competing bid of a foreign supplier :

(a) All customs duties and similar levies shall first be deducted from the total of such foreign bid ;

(b) The portion of such foreign bid representing the C.I.F. landed price of the goods shall then be increased by 15 % thereof or the actual rate of such duties, whichever is lower ;

(c) The resulting figure plus the portion of such foreign bid representing inland freight, insurance and other costs of delivery of the goods to the site of use in the Project, shall be deemed to be the delivered price of the imported goods ;

(d) If the price of the goods delivered to such site offered by the competing Malaysian bidder is equal to or lower than the delivered price of the imported goods arrived at under (c) above, and other terms and conditions are satisfactory under the principles set forth in Part III of the Guidelines, then the Malaysian bid may be considered the lowest evaluated bid under paragraph 3.9 of the Guidelines.

4. *Award of Contracts and Copies of Executed Contracts*

After bids have been received, evaluated and awarded, the Borrower shall send to the Bank a summary analysis thereof and a brief justification of the decision for the award ; provided, however, that in the case of any contract, or group of contracts covered by a single award, involving an amount of \$ 200,000 equivalent or more in respect of construction works and of \$ 25,000 equivalent or more in respect of instructional equipment and furniture, the Borrower shall obtain the Bank's comments before the award is made.

Promptly after the execution of any contract and prior to the submission to the Bank of the first application for withdrawal of funds from the Loan Account in respect of such contract, a copy of such contract shall be sent to the Bank.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

GENERAL CONDITIONS, DATED 31 JANUARY 1969

GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS

[*Not published herein. See United Nations, Treaty Series, Vol. 691, No. I-9892.*]