

CONFORMED COPY

LOAN NUMBER 3571 MA

(Polytechnic Development Project)

between

MALAYSIA

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

Dated April 7, 1993

LOAN NUMBER 3571 MA

LOAN AGREEMENT

AGREEMENT, dated April 7, 1993, between MALAYSIA (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank).

WHEREAS: the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Bank to assist in the financing of the Project;

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the Loan to the Borrower upon the terms and conditions set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Loan and Guarantee Agreements" of the Bank, dated January 1, 1985, with the

modifications set forth below (the General Conditions) constitute an integral part of this Agreement:

(a) The last sentence of Section 3.02 is deleted.

(b) In Section 6.02, sub-paragraph (k) is re-lettered as sub-paragraph (l) and a new sub-paragraph (k) is added to read:

"(k) An extraordinary situation shall have arisen under which any further withdrawals under the Loan would be inconsistent with the provisions of Article III, Section 3 of the Bank's Articles of Agreement."

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Action Plan" means the action plan referred to in Section 3.07 of this Agreement;

(b) "CFSD" means the Center for Staff Development to be established or established under Part A.2 of the Project;

(c) "DSD" means the Development and Supply Division within MOE;

(d) "HRDF" means the Human Resources Development Fund within MOHR;

(e) "MOE" means the Ministry of Education of the Borrower;

(f) "MOHR" means the Ministry of Human Resources of the Borrower;

(g) "NVTC" means the National Vocational Training Council within MOHR;

(h) "Project Polytechnics" means the polytechnics to be established or established under Part A.1 of the Project and includes any other polytechnics as may be agreed to by the Borrower and the Bank;

(i) "Staff Development Action Plan" means the staff development action plan referred to in Section 3.04 of this Agreement;

(j) "Staff Development Consultant" means the consultant to be engaged or engaged by the Borrower pursuant to Section 3.05 of this Agreement;

(k) "TAVED" means the Technical and Vocational Education Division within MOE; and

(l) "UTM" means the Borrower's Universiti Teknologi Malaysia.

ARTICLE II

The Loan

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the Loan Agreement, various currencies that shall have an aggregate value equivalent to the amount of one hundred and seven million dollars (\$107,000,000), being the sum of withdrawals of the proceeds of the Loan, with each withdrawal valued by the Bank as of the date of such withdrawal.

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to

be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 2 to this Agreement and to be financed out of the proceeds of the Loan.

Section 2.03. The Closing Date shall be December 31, 1999, or such later date as the Bank shall establish. The Bank shall promptly notify the Borrower of such later date.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.05. (a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Interest Period equal to the Cost of Qualified Borrowings determined in respect of the preceding Semester, plus one-half of one percent (1/2 of 1%). On each of the dates specified in Section 2.06 of this Agreement, the Borrower shall pay interest accrued on the principal amount outstanding during the preceding Interest Period, calculated at the rate applicable during such Interest Period.

(b) As soon as practicable after the end of each Semester, the Bank shall notify the Borrower of the Cost of Qualified Borrowings determined in respect of such Semester.

(c) For the purposes of this Section:

(i) "Interest Period" means a six-month period ending on the date immediately preceding each date specified in Section 2.06 of this Agreement, beginning with the Interest Period in which this Agreement is signed.

(ii) "Cost of Qualified Borrowings" means the cost, as reasonably determined by the Bank and expressed as a percentage per annum, of the outstanding borrowings of the Bank drawn down after June 30, 1982, excluding such borrowings or portions thereof as the Bank has allocated to fund: (A) the Bank's investments; and (B) loans which may be made by the Bank after July 1, 1989 bearing interest rates determined otherwise than as provided in paragraph (a) of this Section.

(iii) "Semester" means the first six months or the second six months of a calendar year.

(d) On such date as the Bank may specify by no less than six months' notice to the Borrower, paragraphs (a), (b) and (c) (iii) of this Section shall be amended to read as follows:

"(a) The Borrower shall pay interest on the principal amount of the Loan withdrawn and outstanding from time to time, at a rate for each Quarter equal to the Cost of Qualified Borrowings determined in respect of the preceding Quarter, plus one-half of one percent (1/2 of 1%). On each of the dates specified in Section 2.06 of this Agreement, the Borrower shall pay interest accrued on the principal amount outstanding during the preceding Interest Period, calculated at the rates applicable during such Interest Period."

"(b) As soon as practicable after the end of each Quarter, the Bank shall notify the Borrower of the Cost of Qualified Borrowings determined in respect of such Quarter."

"(c) (iii) 'Quarter' means a three-month period commencing on January 1, April 1, July 1 or October 1 in a calendar year."

Section 2.06. Interest and other charges shall be payable semiannually on May 15 and November 15 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Loan in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.

ARTICLE III

Execution of the Project

Section 3.01. The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement, and, to this end, shall carry out Parts A, B, and C.1-C.3 of the Project through MOE and Part C.4 of the Project through MOHR with due diligence and efficiency and in conformity with appropriate administrative, financial and educational practices, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.

Section 3.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 4 to this Agreement.

Section 3.03. The Borrower shall: (a) in consultation with the Bank, employ sufficient staff with appropriate skills and qualifications to adequately maintain and operate the institutes within the Borrower's polytechnic system and CFSD; and (b) without limitation to its obligations under Section 3.01 of this Agreement, ensure that all funds necessary to maintain such staff at the said institutes and CFSD are provided promptly as required.

Section 3.04. The Borrower shall carry out a staff development action plan, agreed to by the Borrower and the Bank, in a manner satisfactory to the Bank.

Section 3.05. Without limitation to its obligations under Section 3.04 and Section II of Schedule 4 of this Agreement, the Borrower shall, by October 31, 1993, engage a Staff Development Consultant, under terms of reference satisfactory to the Bank, for the purpose of providing assistance in carrying out the Staff Development Action Plan.

Section 3.06. Without limitation to its obligations under Section 9.01 of the General Conditions, the Borrower shall carry out, by March 1, in each year commencing in 1994, a review of the progress of the Project on the basis of, and in accordance with, key performance indicators satisfactory to the Bank, and provide, by June 1 of each such year, a report concerning the findings of said annual review to the Bank for its information and comments.

Section 3.07. The Borrower shall carry out an action plan for policy reform and institutional strengthening of the Borrower's polytechnic system, agreed to by the Borrower and the Bank, in a manner satisfactory to the Bank.

Section 3.08. The Borrower shall not amend or terminate its Agreement with UTM, referred to in Section 5.01 (c) of this Agreement, or waive any provision thereof without prior consultation in this regard with the Bank.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Borrower shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expen-

ditures in respect of the Project of the departments or agencies of the borrower responsible for carrying out the Project or any part thereof.

(b) The Borrower shall:

- (i) have the records and accounts referred to in paragraph (a) of this Section for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than nine months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the Loan Account were made on the basis of statements of expenditure, the Borrower shall:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the Loan Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Bank's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

ARTICLE V

Effective Date; Termination

Section 5.01. The following events are specified as additional conditions to the effectiveness of the Loan Agreement within the meaning of Section 12.01 (c) of the General Conditions:

- (a) the Borrower has acquired the sites required for the establishment of the Project Polytechnics;
- (b) the Borrower has completed the reconstruction of its Batu Pahat polytechnic to the satisfaction of the Bank;
- (c) the Borrower has entered into an agreement with UTM, on terms and conditions satisfactory to the Bank, for the implementation of the Staff Development Action Plan; and
- (d) the Borrower has appointed a Deputy Director in TAVED.

Section 5.02. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. The Minister or Deputy Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

The Treasury
Jalan Duta
50592 Kuala Lumpur
Malaysia

Cable address:

TREASURY
Kuala Lumpur

Telex:

MA 30242
MA 32369

For the Bank:

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

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

248423 (RCA),
82987 (FTCC),
64145 (WUI) or
197688 (TRT)

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

MALAYSIA

/s/ Dato' Abdul Majid Mohamed

By

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

/s/ Daniel Ritchie

By

Acting Regional Vice President
East Asia and Pacific

SCHEDULE 1

Withdrawal of the Proceeds of the Loan

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Loan, the allocation of the amounts of the Loan to each Category and the percentage of expenditures for items so to be financed in each Category:

Category	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(1) Civil works	24,100,000	30%
(2) Equipment and vehicles	37,800,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 60% of other local expenditures for items procured locally
(3) Furniture	1,600,000	30%
(4) Books and instructional materials	1,600,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 60% of local expenditures for other items procured locally
(5) Training	15,500,000	100%
Category	Amount of the Loan Allocated (Expressed in Dollar Equivalent)	% of Expenditures to be Financed
(6) Consultants' services		
(a) under Part A.4 of the Project	3,400,000	30%
(b) Other than sub-category (a) above	23,000,000	80%
TOTAL	107,000,000	

2. For the purposes of this Schedule:

(a) the term "foreign expenditures" means expenditures in the currency of any country other than that of the Borrower for goods or services supplied from the territory of any country other than that of the Borrower; and

(b) the term "local expenditures" means expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures

prior to the date of this Agreement.

SCHEDULE 2

Description of the Project

The objectives of the Project are to: (a) improve the polytechnic system through decentralization; (b) expand the training capacity of the polytechnic system; (c) increase the efficiency of the polytechnic system; (d) improve the quality and availability of staff within the polytechnic system; (e) strengthen the implementation and management capacity of the DSD and TAVED; (f) strengthen the capacity of MOHR to operate and maintain the HRDF, and (g) strengthen the planning and research capacity of the NVTC.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Bank may agree upon from time to time to achieve such objectives:

PART A:

1. The establishment of three polytechnics at Shah Alam, Penang and Johor Bahru to create about 13,000 additional training places.
2. The establishment and maintenance of a Center for Staff Development at the Batu Pahat polytechnic to train teachers including recruitment and training of about 1,000 new teachers and instructors for the Project Polytechnics.
3. The provision of equipment and about 12 vehicles, furniture, books and instructional materials for Parts A.1 and A.2 above.
4. The provision of civil works and architectural, engineering and other professional services related thereto for Parts A.1 and A.2 above.

PART B:

The carrying out of policy reform and institutional strengthening of the Borrower's polytechnic system through the implementation of the Action Plan aimed at providing a wider scope of services, increased quality of service delivery, better capacity utilization, and the lowering of unit costs.

PART C:

1. The provision of technical assistance and training for the Project Polytechnics and CFSD.
2. The carrying out of studies for the improvement of the Borrower's polytechnic system.
3. The provision of additional staff to DSD and TAVED and the provision of training for their staff to strengthen their Project implementation and management capacity.
4. The provision of technical assistance and training for the strengthening of HRDF and NVTC.

* * *

The Project is expected to be completed by June 30, 1999.

SCHEDULE 3

Amortization Schedule

Date Payment Due	Payment of Principal (expressed in dollars)*
On each May 15 and November 15 beginning November 15, 1998 through November 15, 2009	4,460,000
And on May 15, 2010	4,420,000

* The figures in this column represent dollar equivalents determined as of the respective dates of withdrawal. See General Conditions, Sections 3.04 and 4.03.

Premiums on Prepayment

Pursuant to Section 3.04 (b) of the General Conditions, the premium payable on the principal amount of any maturity of the Loan to be prepaid shall be the percentage specified for the applicable time of prepayment below:

Time of Prepayment	Premium
	The interest rate (expressed as a percentage per annum) applicable to the Loan on the day of prepayment multiplied by:
Not more than three years before maturity	0.18
More than three years but not more than six years before maturity	0.35
More than six years but not more than eleven years before maturity	0.65
More than eleven years but not more than fifteen years before maturity	0.88
More than fifteen years before maturity	1.00

SCHEDULE 4

Procurement and Consultants' Services

Section I. Procurement of Goods and Works

Part A: International Competitive Bidding

1. Except as provided in Part C hereof, equipment, estimated to cost the equivalent of \$200,000 or more, and civil works, estimated to cost the equivalent of \$5,000,000 or more, shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines). For fixed-price contracts, the invitation to bid referred to in paragraph 2.13 of the Guidelines shall provide that, when contract award is delayed beyond the original bid validity period, the successful bidder's bid price will be increased for each week of delay by two predisclosed correction factors acceptable to

the Bank, one to be applied to all foreign currency components and the other to the local currency component of the bid price. Such an increase shall not be taken into account in the bid evaluation.

2. To the extent practicable, contracts for goods shall be grouped into bid packages estimated to cost the equivalent of \$200,000 or more.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Part A.1 hereof, goods manufactured in Malaysia may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part C: Other Procurement Procedures

1. Civil works, estimated to cost less than the equivalent of \$5,000,000 per contract, up to an aggregate amount not to exceed the equivalent of \$9,000,000, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Bank.

2. (a) Except as provided in sub-paragraph (b) hereof, items or groups of items of equipment and vehicles estimated to cost less than the equivalent of \$200,000 per contract, up to an aggregate amount not to exceed the equivalent of \$12,400,000, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Bank.

(b) Items or groups of items of equipment and vehicles, estimated to cost less than the equivalent of \$50,000 per contract, up to an aggregate amount not to exceed the equivalent of \$1,800,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

3. (a) Except as provided in sub-paragraph (b) hereof, furniture shall be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Bank.

(b) Items or groups of items of furniture, estimated to cost less than the equivalent of \$200,000 per contract, up to an aggregate amount not to exceed the equivalent of \$600,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

4. (a) Except as provided in sub-paragraph (b) hereof, books and instructional materials, shall be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers eligible under the Guidelines, in accordance with procedures acceptable to the Bank.

(b) Contracts for books and instructional materials, up to an aggregate amount not to exceed the equivalent of \$800,000, may be awarded after direct negotiations with suppliers, in accordance with procedures acceptable to the Bank.

Part D: Review by the Bank of Procurement Decisions

1. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract for civil works estimated to cost the equivalent of \$500,000 or more and each contract for goods estimated to cost the equivalent of \$200,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the

Guidelines shall apply.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals are to be made on the basis of statements of expenditure.

2. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II. Employment of Consultants

1. In order to assist the Borrower in carrying out the Project, Borrower shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Bank. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Bank on the basis of the "Guidelines for the Use of Consultants by World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines).

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts shall not apply to contracts estimated to cost less than \$100,000 equivalent each. However, this exception to prior Bank review shall not apply to the terms of reference for such contracts nor to the employment of individuals, to single source selection of firms, to assignments of a critical nature as reasonably determined by the Bank and to amendments of contracts raising the contract value to \$100,000 equivalent or above.

