

No. 4342

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

Guarantee Agreement—*Second Tata Steel Project* (with annexed Loan Regulations No. 4 and Loan Agreement —*Second Tata Steel Project*—between the Bank and the Tata Iron and Steel Company, Limited). Signed at New York, on 20 November 1957

Official text: English.

Registered by the International Bank for Reconstruction and Development on 20 May 1958.

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

Contrat de garantie — *Deuxième Projet de la Société Tata relatif à la sidérurgie* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt — *Deuxième Projet de la Société Tata relatif à la sidérurgie* — entre la Banque et la Tata Iron and Steel Company, Limited). Signé à New-York, le 20 novembre 1957

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 20 mai 1958.

No. 4342. GUARANTEE AGREEMENT¹ (*SECOND TATA STEEL PROJECT*) BETWEEN INDIA AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT NEW YORK, ON 20 NOVEMBER 1957

AGREEMENT, dated November 20, 1957, between INDIA, acting by its President (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by an agreement of even date herewith between the Bank of the one part and The Tata Iron and Steel Company, Limited (hereinafter called the Borrower) of the other part, which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,² the Bank has agreed to make to the Borrower a loan in various currencies in an aggregate principal amount equivalent to thirty-two million five hundred thousand dollars (\$32,500,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the payment of the principal, interest and other charges on such loan;

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed to guarantee the payment of the principal, interest and other charges on such loan; and

WHEREAS an agreement as recited in the Loan Agreement will be entered into between the Guarantor and the Borrower setting forth the terms on which the Guarantor has agreed to give its guarantee above recited;

NOW THEREFORE the parties hereto hereby agree as follows :

Article I

Section 1.01. The parties to this Guarantee Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,² subject, however, to the modifications thereof set forth in Schedule 3³ to said Loan Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were

¹ Came into force on 19 February 1958, upon notification by the Bank to the Government of India.

² See p. 56 of this volume.

³ See p. 88 of this volume.

fully set forth herein. The terms defined in said Loan Agreement shall have the same meaning herein as if such definitions were fully set forth herein.

Article II

Section 2.01. Without limitation or restriction upon any of the other covenants on its part in this Agreement contained, the Guarantor hereby unconditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of, and interest on the Bonds and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, all as set forth in the Loan Agreement, the Trust Deed and the Bonds.

Article III

Section 3.01. It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Guarantor undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision as security for any external debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (a) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (b) any pledge of commercial goods to secure debt maturing not more than one year after its date and to be paid out of the proceeds of sale of such commercial goods; or (c) any pledge by the Reserve Bank of India of any of its assets in the ordinary course of its banking business to secure any indebtedness maturing not more than one year after its date.

Section 3.02. (a) The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan 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. On the part of the Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor and the international balance of payments position of the Guarantor.

(b) The Guarantor and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Guarantor shall promptly inform the Bank of any condition which shall arise that shall interfere with, or threaten to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

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

Section 3.03. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for and free from any taxes (including duties, fees or impositions) imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of, or duties or fees or impositions levied upon, payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

Section 3.04. This Guarantee Agreement, the Loan Agreement, the Trust Deed and the Bonds shall be free from any taxes (including duties, fees or impositions) that shall be imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

Section 3.05. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid free from all restrictions imposed under the laws of the Guarantor or laws in effect in its territories.

Section 3.06. The Guarantor shall not, without the approval of the Bank, amend the First Government Agreement, the Second Government Agreement, the Third Government Agreement or the Fourth Government Agreement, as these are defined in Recitals I, J, K and L of the Loan Agreement.

Section 3.07. The Guarantor hereby consents, for the purposes of said First Government Agreement, to the raising of the Loan by the Borrower.

Article IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the Loan Agreement and of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. A Secretary to the Government of India in the Ministry of Finance is designated as the authorized representative of the Guarantor for the purposes of Section 6.12 (b) of the Loan Regulations.

Article V

Section 5.01. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Guarantor :

The Secretary to the Government of India
Ministry of Finance
New Delhi
India

Alternative address for cablegrams and radiograms :

Finance Ministry
New Delhi

For the Bank :

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington 25, D. C.
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad
Washington, D. C.

Section 5.02. A Secretary to the Government of India in the Ministry of Finance is designated for the purposes of Section 8.03 of the Loan Regulations.

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

India :

By Harishwar DAYAL
Authorized Representative

International Bank for Reconstruction and Development :

By Eugene R. BLACK
President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 JUNE 1956

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

[Not published herein. See *United Nations, Treaty Series, Vol. 260, p. 376.*]

LOAN AGREEMENT (*SECOND TATA STEEL PROJECT*)

AGREEMENT, dated November 20, 1957, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and THE TATA IRON AND STEEL COMPANY, LIMITED, a company duly incorporated under the Indian Companies Act (hereinafter called the Borrower).

WHEREAS

(A) By a loan agreement dated June 26, 1956,¹ between the Bank and the Borrower, the Bank granted a loan to the Borrower in an amount in various currencies equivalent to \$75,000,000 for the purpose of financing the modernization and expansion of the Borrower's works at Jamshedpur as more particularly described therein;

(B) Said loan was guaranteed as to payment of principal, interest and other charges by India, acting by its President (hereinafter called the Guarantor) upon the terms of a Guarantee Agreement dated June 26, 1956;¹

(C) By the 1957 Trust Deed (as hereinafter defined) the Borrower created as security for said loan a first specific mortgage and a first floating charge in respect of its properties and undertaking;

(D) The Bank has been requested to grant a second loan to the Borrower to be similarly guaranteed by the Guarantor upon the terms of a Guarantee Agreement² of even date herewith;

(E) The security constituted by the 1957 Trust Deed is to be appropriately modified, as hereinafter in Section 5.04 provided, so that the first loan and said second loan shall rank *Pari passu* in respect of such security as so modified;

(F) The Borrower by a Debenture Trust Deed dated 2nd July 1937 (as from time to time supplemented) has created a specific mortgage and a floating charge in respect of its properties and undertaking securing its Mortgage Debenture Stock now maturing as to principal on July 1, 1967;

¹ See p. 3 of this volume.

² See p. 48 of this volume.

(G) All said Mortgage Debenture Stock, presently outstanding in the aggregate principal amount of Rs. 20,000,000, has been and is now pledged to State Bank of India to secure advances in the aggregate amount of Rs. 20,000,000;

(H) The security constituted by said Debenture Trust Deed dated 2nd July 1937 (as supplemented) was subordinated to the security constituted by the 1957 Trust Deed and the Borrower has agreed to cause State Bank of India and the Trustees under said Debenture Trust Deed (as supplemented) to consent to further modifications of said Debenture Trust Deed (as supplemented) so as to permit the security referred to in Recital E above to rank prior to the mortgage and charge constituted by said Debenture Trust Deed (as supplemented);

(I) The Guarantor and the Borrower have entered into an Agreement dated May 24, 1954 (hereinafter called the First Government Agreement) providing for a special advance by the Guarantor to the Borrower of Rs. 100,000,000 to assist in financing the Modernization and Expansion Program hereinafter described in Part I of Schedule 2¹ to this Agreement;

(J) The Guarantor and the Borrower have entered into an Agreement dated June 23, 1955 (hereinafter called the Second Government Agreement) relating to the financing by the Borrower of part of the costs of the Two Million Ton Program hereinafter described in Part II of Schedule 2 to this Agreement;

(K) The Guarantor and the Borrower have entered into an Agreement dated September 19, 1956 (hereinafter called the Third Government Agreement), setting forth the terms on which the Guarantor agreed to give its guarantee referred to in Recital B above;

(L) The Guarantor and the Borrower propose to enter into an Agreement (hereinafter called the Fourth Government Agreement) setting forth the terms on which the Guarantor has agreed to give its guarantee referred to in Recital D above;

(M) Certain United States and Canadian banks and financial institutions have agreed with the Borrower to provide finance to it and for such purpose have agreed to participate in said second loan in an aggregate amount equivalent to \$15,000,000; and

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

NOW THEREFORE, it is hereby agreed as follows :

Article I

LOAN REGULATIONS; SPECIAL DEFINITIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated June 15, 1956,² subject, however, to the modifications thereof set forth in Schedule 3³ to this Agreement (said Loan Regulations

¹ See p. 84 of this volume.

² See p. 56 of this volume.

³ See p. 88 of this volume.

No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

Section 1.02. Except where the context otherwise requires, the following terms have the following meanings wherever used in this Agreement or any schedule thereto :

- (a) The term "first Loan Agreement" means the Loan Agreement, dated June 26, 1956,¹ between the Bank and the Borrower, as modified by the provisions of Article VII of this Agreement.
- (b) The term "first loan" means the loan provided for in the first Loan Agreement as said Loan Agreement may be from time to time amended.
- (c) The term "Debenture Trust Deed" means the Debenture Trust Deed dated 2nd July 1937, and shall include any deeds or instruments supplemental thereto.
- (d) The term "1957 Trust Deed" means the Trust Deed dated May 9, 1957, made between the Borrower and Baring Brothers & Co., Limited, as trustees, and the Bank securing the first loan and the bonds issuable under the first Loan Agreement in a principal amount in various currencies equivalent to \$75,000,000 and (except where the context otherwise requires) shall include any deeds or instruments supplemental thereto.
- (e) The term "Supplemental Indenture" means the deed or deeds and other instruments which shall be executed by the Borrower in accordance with the provisions of Section 5.04 of this Agreement in order to modify the security of the 1957 Trust Deed as in said Section provided.
- (f) The term "Trust Deed" means the 1957 Trust Deed as modified by the Supplemental Indenture and shall except where the context otherwise requires include each deed and other instrument included in the Supplemental Indenture and any deed or deeds supplemental to the 1957 Trust Deed as so modified which shall be executed and delivered in accordance with the provisions thereof.
- (g) The term "State Bank" means the State Bank of India.
- (h) The term "subsidiary" means any company which is a subsidiary of the Borrower within the meaning of The Companies Act, 1956 of India (or any amendment thereto).
- (i) The term "rupees" and the letters "Rs." mean currency of the Guarantor.

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-two million five hundred thousand dollars (\$32,500,000).

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, this Agreement; provided, however, that, except as the Bank and the Borrower may otherwise agree : (i) until the Borrower shall

¹ See p. 3 of this volume.

have complied with the provisions of Section 5.04 of this Agreement, no more than an amount equivalent to six million dollars (\$6,000,000) shall be withdrawn from the Loan Account, (ii) no more than an amount equivalent to \$17,500,000 shall be withdrawn from the Loan Account prior to July 1, 1958, and (iii) the balance of \$15,000,000 shall become available for such withdrawal only as follows: \$1,672,000 shall become available for such withdrawal commencing with July 1, 1958, and \$1,666,000 shall become similarly available commencing with the first day of each of the eight months thereafter.

Section 2.03. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ($\frac{3}{4}$ of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time. Such commitment charge shall accrue from a date sixty days after the date of this Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Loan Account as provided in Article IV of the Loan Regulations or shall be cancelled pursuant to Article V of the Loan Regulations.

Section 2.04. The Borrower shall pay interest at the rate of six per cent (6%) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

Section 2.05. Except as the Bank and the Borrower shall otherwise agree, the charge payable for special commitments entered into by the Bank at the request of the Borrower pursuant to Section 4.02 of the Loan Regulations shall be at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per annum on the principal amount of any such special commitments outstanding from time to time.

Section 2.06. Interest and other charges shall be payable semi-annually on April 1 and October 1 in each year.

Section 2.07. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1¹ to this Agreement.

Article III

USE OF PROCEEDS OF THE LOAN

Section 3.01. The Borrower shall apply the proceeds of the Loan exclusively to financing the cost of goods required to carry out the Project described in Schedule 2 to this Agreement. The specific goods to be financed out of the proceeds of the Loan 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 Guarantor and there to be used exclusively in the carrying out of the Project.

¹ See p. 82 of this volume.

Article IV

BONDS

Section 4.01. The Borrower shall execute and duly deliver Bonds representing the principal amount of the Loan of the form, tenor and purport prescribed in the Trust Deed and as provided thereby and in the Loan Regulations.

Section 4.02. The Borrower shall from time to time designate and notify to the Bank an authorized representative or representatives for the purposes of Section 6.12 (a) of the Loan Regulations.

Section 4.03. The Borrower shall effect original issues of the Bonds only as herein provided.

Section 4.04. The Bank and the Borrower shall be at liberty to make such arrangements as they may from time to time mutually agree as to procedure for the issue, authentication and delivery of the Bonds and such arrangements may be in addition to or in substitution for any of the provisions of this Agreement or of the Loan Regulations.

Article V

PARTICULAR COVENANTS

Section 5.01. The Borrower shall carry out and complete the Project and operate its undertaking, including the Project, with due diligence and efficiency and in conformity with sound industrial, engineering, financial and business practices.

Section 5.02. (a) The Borrower shall furnish or cause to be furnished to the Bank, promptly upon their preparation, the plans and specifications (including construction schedules) for the Project and any material modifications subsequently made therein, in such detail as the Bank shall from time to time request.

(b) 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 operations and financial condition of the Borrower and of its subsidiaries.

(c) The Borrower shall enable the Bank's representatives to inspect the goods financed out of the proceeds of the Loan, the sites, works, construction and operations included in the Project and all other plants, works, properties, equipment and operations of the Borrower and its subsidiaries, and to examine any relevant books, records and documents.

(d) The Borrower 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 operations and financial condition of the Borrower and of its subsidiaries.

Section 5.03. (a) The Bank and the Borrower shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan.

(b) The Bank and the Borrower shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Loan and the maintenance of the service thereof. The Borrower shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

(c) The Borrower shall cause each subsidiary to observe and perform the obligations of the Borrower hereunder to the extent to which the same may be applicable thereto as though such obligations were binding upon each such subsidiary.

Section 5.04. (a) The Borrower shall execute and deliver, and shall cause all other necessary parties to execute and deliver, all such deeds and other instruments, in such form, as the Bank may reasonably require to cause the security constituted by the 1957 Trust Deed to be so modified and extended that as so modified and extended it will constitute by way of security for the principal of, interest on and premium on prepayment, if any, on the Loan, the Bonds, the first loan and the bonds issuable under the first Loan Agreement, all of which shall rank *pari passu inter se* in respect of such security : (1) a First Specific Mortgage upon all the properties now owned or hereafter acquired by the Borrower and expressed in the 1957 Trust Deed to be the specifically mortgaged premises thereunder or intended so to be and (2) a First Floating Charge upon all the property and assets expressed in the 1957 Trust Deed to be charged or intended so to be by the first floating charge created thereby, such Mortgage and Charge to rank in point of security prior to any other mortgage, charge or lien upon any of the properties or assets of the Borrower, now existing or hereafter created, including the Debenture Trust Deed, except mortgages, charges, liens, pledges or hypothecations permitted by the provisions of Section 5.05 of this Agreement.

(b) The Borrower shall take all necessary steps and shall procure all other necessary parties to take all necessary steps to ensure that all mortgages, charges, pledges, hypothecations and liens outstanding upon the property and assets to be mortgaged, charged or assigned by or pursuant to the Trust Deed shall be discharged or be varied to the reasonable satisfaction of the Bank so as to provide that the Mortgage and Charge constituted by the Trust Deed shall, save only as provided or permitted by Section 5.05 of this Agreement, rank first in point of security upon such property and assets.

(c) The Borrower shall obtain all necessary consents for the valid execution and delivery of the Supplemental Indenture and shall duly register, or cause to be duly registered, the Supplemental Indenture, together with such other documents as may be necessary or proper in order to render the same fully effective in accordance with its terms.

(d) The Borrower shall hold or acquire, to the reasonable satisfaction of the Bank, all such lands and properties and all such rights of way, easements, licenses, consents, or other rights or privileges as shall be necessary or requisite to enable it to construct the Project and operate its undertaking, or shall (to the like satisfaction) make effective arrangements therefor; and the Borrower shall supply to the Bank a certificate, satisfactory to the Bank, setting forth particulars of the foregoing.

(e) The Borrower shall, not later than March 31, 1958, furnish evidence, satisfactory to the Bank, that it has duly performed its obligations pursuant to the foregoing subparagraphs of this Section. As part of such evidence there shall be furnished an opinion or opinions satisfactory to the Bank of counsel acceptable to the Bank showing that the requirements of subparagraphs (a) to (c) inclusive of this Section have been duly complied with and that, as to such property, lands and interests in land specified in the certificate referred to in subparagraph (d) as being owned or having been acquired, the Borrower has good and marketable title thereto; that as to such licenses, consents or other rights or privileges specified in said certificate as having been acquired, the Borrower has validly acquired the same and that the same are valid and effective; and that, as to arrangements specified in said certificate for the acquisition of any of the foregoing, such arrangements are valid and effective.

(f) The Bank and the Borrower may from time to time agree upon modifications of the foregoing requirements of this Section.

Section 5.05. (a) The Borrower undertakes that, except as the Bank shall otherwise agree, no mortgage, hypothecation, lien, pledge or charge which would rank prior to or *pari passu* with the Mortgage or Charge created or to be created by or pursuant to the Trust Deed shall, after the date of this Agreement, be created or maintained on any of its assets as security for any debt, or extended to secure any additional debt, except that the Borrower may :

- (i) create or maintain mortgages, hypothecations, specific charges or pledges ranking in priority to the Floating Charge created or to be created under the Trust Deed, but subject to the First Specific Mortgage, securing debts or borrowings incurred to bankers in the ordinary course of business, in an amount not exceeding in the aggregate at any one time one hundred and fifty million rupees (Rs. 150,000,000), provided, however, that the amount of such debts or borrowings (excluding demand obligations) maturing more than one year (at a time) from their respective dates shall not exceed twenty million rupees (Rs. 20,000,000); but so that no lender or other person dealing with the Borrower shall be entitled or concerned to see or enquire whether these limits are observed or not provided that the lender has obtained from the Borrower a certificate certifying that the amounts borrowed and then to be borrowed are within the aforesaid limits;
- (ii) create or maintain mortgages and charges, ranking in priority to the Mortgage and Charge created or to be created by or pursuant to the Trust Deed, on housing property to secure loans obtained from the Guarantor or the Government of any State within India to assist in the construction of employee housing; and

(iii) issue, on such terms and conditions as shall be agreed upon between the Bank and the Borrower, for the purpose of financing or refinancing the cost of the Project, debentures or other obligations ranking *pari passu* with the first loan and the Loan in the security constituted or to be constituted by the Trust Deed in an aggregate principal amount not exceeding, without the consent of the Bank, the equivalent of two million five hundred thousand dollars (\$2,500,000).

(b) Except as the Bank shall otherwise agree : (i) no subsidiary shall at any time create any mortgage, charge or security on its undertaking, properties or assets (including uncalled capital) or any part thereof otherwise than in favor of the Borrower; (ii) all mortgages, charges or securities created by any subsidiary in favor of the Borrower shall be retained by the Borrower and shall not be sold, transferred or otherwise disposed of by it; and (iii) the Borrower shall not sell, transfer or otherwise dispose of any shares for the time being held by it in any subsidiary so that such subsidiary shall cease to be a subsidiary of the Borrower.

(c) The Borrower shall from time to time at the request of the Bank specifically assign to the Trustees under the Trust Deed all the interest of the Borrower in such contracts for the supply of coal, minerals or power as shall be specified in such request, and upon any such request the interest in the contract specified therein shall become and be deemed to be part of the property covered by the First Specific Mortgage constituted by the Trust Deed.

Section 5.06. Except as the Bank and the Borrower shall otherwise agree, the Borrower shall not incur, and shall not permit any subsidiary to incur, indebtedness if at the time and as a result thereof the consolidated unimpaired capital and surplus of the Borrower and its subsidiaries, would be less than the consolidated indebtedness of the Borrower and its subsidiaries.

For the purposes of and in making any calculation pursuant to this Section :

- (a) The term “indebtedness” shall not include (i) commercial and trade liabilities (including in such liabilities accrued liabilities to the Indian Iron and Steel Controller but not including in such liabilities obligations to bankers or in respect of deposits accepted by the Borrower) incurred in the ordinary course of business and payable on demand or not more than one year after the date as of which such calculation is required to be made for the purposes of this Section, or (ii) other debts maturing on demand or by their terms not more than one year after the date as of which such calculation is required to be made for the purposes of this Section, provided, however, that if the aggregate amount of such other debts shall be in excess of Rs. 100,000,000 the amount of such excess shall be deemed to be indebtedness for the purposes of this Section.
- (b) There shall be included in “capital and surplus”, and excluded from “indebtedness”, the amount then outstanding of the Government advance provided for in the First Government Agreement.
- (c) Amounts in currency other than currency of the Guarantor shall be converted into currency of the Guarantor at the official selling rate of the Reserve Bank of India for such other currency on the date on which the Borrower proposes to incur the debt in question.

- (d) The term “consolidated indebtedness” shall mean the total amount of indebtedness of the Borrower and all its subsidiaries (if any) excluding indebtedness owed by the Borrower to any subsidiary or by any subsidiary to the Borrower or to any other subsidiary.
- (e) The term “capital and surplus” shall mean capital and surplus determined in accordance with sound accounting procedures.
- (f) The term “consolidated capital and surplus” shall mean the total capital and surplus of the Borrower and all its subsidiaries after excluding such items of capital and surplus as shall represent equity interest by the Borrower or any subsidiary in the Borrower or any subsidiary.

Section 5.07. (a) The Borrower shall at all times take all requisite steps for the acquisition, retention and renewal by it of all such lands, interests in land and properties and all such rights, powers and privileges as may be necessary or proper for the construction of the Project, the operation of the properties included therein and of its other properties and the carrying on of its undertaking.

(b) The Borrower shall at all times maintain its corporate existence and right to carry on operations and shall, except as the Bank may otherwise agree, acquire, maintain and renew all rights, powers, privileges and franchises owned or held by it and necessary or useful in the conduct of its business.

(c) The Borrower shall operate its undertaking and conduct its affairs in accordance with sound business, industrial and financial practices and shall maintain, renew and repair its plants, machinery, equipment and property as required in accordance with sound engineering practices.

Section 5.08. Except as the Bank shall otherwise agree, the Borrower shall pay dividends only from current earnings.

Section 5.09. Subject to such exemption as shall be conferred by the provisions of Section 3.03 and Section 3.04 of the Guarantee Agreement,¹ the Borrower shall pay or cause to be paid all taxes (including duties, fees or impositions), if any, imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration of the Loan Agreement, the Guarantee Agreement, the Trust Deed 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 (including duties levied in respect of, or fees or impositions upon) payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

Section 5.10. The Borrower shall pay or cause to be paid all taxes (including duties, fees and impositions), if any, imposed under the laws of the United Kingdom or the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of the United Kingdom or such country or countries on or in connection with the execution, issue, delivery or registration of the Loan Agreement, the Guarantee Agreement, the Trust Deed or the Bonds.

¹ See p. 48 of this volume.

Section 5.11. (a) 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 hazards incident to delivery of the goods into the territories of the Guarantor, and shall be for such amounts, as shall be consistent with sound commercial practice. Such insurance shall be payable in the currency in which the cost of the goods insured thereunder shall be payable.

(b) The Borrower shall, in addition to the insurance provided for in subparagraph (a) of this Section, take out or cause to be taken out, and maintain or cause to be maintained, such insurance, against such risks and in such amounts as shall be consistent with sound industrial and business practice.

Section 5.12. The Borrower shall not consent to any action taken at any meeting of bondholders or by written instrument pursuant to the provisions of the Trust Deed which would change the terms of the Bonds or adversely affect the holders thereof or the Bank unless the Bank shall have expressed in writing its approval of such action or such consent.

Section 5.13. The Borrower shall duly perform all obligations to be performed by it under the 1957 Trust Deed and the Trust Deed.

Section 5.14. The Borrower shall not amend its Memorandum or Articles of Association without the approval of the Bank.

Section 5.15. The Borrower shall not agree to any amendment of the First Government Agreement, the Second Government Agreement, the Third Government Agreement or the Fourth Government Agreement without the approval of the Bank.

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 the events specified in paragraph (j) of Section 5.02 of the Loan Regulations shall occur, or (iii) if any event specified in paragraph (c) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Agreement, the Trust Deed or the Bonds to the contrary notwithstanding.

Article VII

MODIFICATIONS OF LOAN AGREEMENT DATED JUNE 26, 1956

Section 7.01. The Loan Agreement dated June 26, 1956 between the Bank and the Borrower is hereby amended as follows :

(a) In Sections 3.01 and 3.02, the words "Part II of" are deleted.

(b) Paragraphs (i) and (iii) of Sub-section 5.05 (a) are amended to read as follows :

“(i) Create or maintain mortgages, hypothecations, specific charges or pledges ranking in priority to the Floating Charge created or to be created under the Trust Deed, but subject to the First Specific Mortgage, securing debts or borrowings incurred to bankers in the ordinary course of business, in an amount not exceeding in the aggregate at any one time one hundred and fifty million rupees (Rs. 150,000,000), provided, however, that the amount of such debts or borrowings (excluding demand obligations) maturing more than one year (at a time) from their respective dates shall not exceed twenty million rupees (Rs. 20,000,000); but so that no lender or other person dealing with the Borrower shall be entitled or concerned to see or enquire whether these limits are observed or not provided that the lender has obtained from the Borrower a certificate certifying that the amounts borrowed and then to be borrowed are within the aforesaid limits;

“(iii) issue, on such terms and conditions as shall be agreed upon between the Bank and the Borrower, for the purpose of financing or refinancing the cost of the Project, debentures or other obligations ranking *pari passu* with the Bonds in the security constituted or to be constituted by the Trust Deed in an aggregate principal amount not exceeding, without the consent of the Bank, the equivalent of two million five hundred thousand dollars (\$2,500,000).”

(c) Paragraph (a) of Section 5.06 is amended by inserting the words “on demand or” after the word “payable” and after the word “maturing”.

(d) The following section is added in Article VIII :

“Section 8.03. Tata Industries Private Limited and Tata Incorporated jointly are and each of them severally is hereby designated by the Borrower to sign applications provided for in Article IV of the Loan Regulations and to take any other action or execute any other documents except Bonds required or permitted to be taken or executed pursuant to the provisions of this Agreement by the Borrower and the Bank shall be entitled to rely exclusively on any such action or execution.”

(e) Schedule 2 is amended to conform to Schedule 2 of this Agreement.

Section 7.02. For the purposes of the Loan Agreement dated June 26, 1956, between the Bank and the Borrower, paragraph (c) of Section 5.02 of Loan Regulations No. 4 of the Bank, dated February 15, 1955, as amended May 10, 1956, is hereby amended to read as follows :

“(c) A default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower or the Guarantor under the Loan Agreement, the Guarantee Agreement, or the Bonds or under the Loan Agreement dated November 20, 1957, the Guarantee Agreement of even date therewith, or the bonds therein provided for.”;

and the term “Loan Regulations” as used for the purposes of the said Loan Agreement shall mean Loan Regulations No. 4 of the Bank, dated February 15, 1955, as amended May 10, 1956, as modified by said Loan Agreement and as further amended hereby.

Article VIII

EFFECTIVE DATE; TERMINATION

Section 8.01. The following events are specified as additional conditions to the effectiveness of this Agreement within the meaning of Section 9.01 (a) (ii) of the Loan Regulations :

- (a) The State Bank and the Trustees under the Debenture Trust Deed shall have agreed (in form satisfactory to the Bank) to subordinate the security constituted by the Debenture Trust Deed to the security to be constituted by the Trust Deed.
- (b) Without limiting the generality of Section 9.01 (a) (i) of the Loan Regulations, (i) the shareholders of the Borrower shall have taken such action, satisfactory to the Bank, in amendment of or pursuant to the Borrower's Articles of Association, as shall be necessary to authorize the Directors of the Borrower validly to authorize or to ratify and adopt this Agreement on behalf of the Borrower, (ii) the Directors of the Borrower shall have validly authorized or ratified and adopted this Agreement on behalf of the Borrower and (iii) all necessary consents for the valid execution, ratification and adoption of this Agreement by and on behalf of the Borrower shall have been secured.
- (c) The Borrower has satisfied the Bank that the Borrower will be able to comply with the requirements of Section 5.04 (b) of this Agreement.
- (d) The Borrower shall certify in writing to the Bank that, as of a date to be agreed between the Borrower and the Bank, there has been no material adverse change in its condition since the date of this Agreement.
- (e) The Fourth Government Agreement shall have been duly executed in form satisfactory to the Bank and shall have become fully effective and binding upon the parties thereto in accordance with its terms.

Section 8.02. The following are specified as additional matters, within the meaning of Section 9.02 (e) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank :

- (a) That the actions provided for in Section 8.01 (b) of this Agreement have been duly and validly taken, and that the Borrower has full power and authority to raise monies by the issuance of Bonds and otherwise as herein and in the first Loan Agreement provided, and that all acts, consents and approvals necessary therefor have been duly and validly performed or given.
- (b) that the Borrower has full power and authority to construct and operate the Project and has all necessary rights and powers in connection therewith, that all acts, franchises, concessions, consents and approvals necessary therefor have been duly and validly performed or given, and that, with such exceptions as the Bank may have approved, all easements, rights and privileges necessary therefor have been duly obtained.

(c) That the Fourth Government Agreement is a valid and binding obligation of the parties thereto in accordance with its terms.

Section 8.03. A date 90 days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

Article IX

MISCELLANEOUS

Section 9.01. The Closing Date shall be September 30, 1959.

Section 9.02. 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 25, D. C.
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad
Washington, D. C.

For the Borrower :

The Tata Iron and Steel Company, Limited
Bombay House, Bruce Street
Bombay No. 1
India

Alternative address for cablegrams and radiograms :

Ironco
Bombay

Section 9.03. Tata Industries Private Limited and Tata Incorporated jointly are and each of them severally is hereby designated by the Borrower to sign applications provided for in Article IV of the Loan Regulations and to take any other action or execute any other documents except Bonds required or permitted to be taken or executed pursuant to the provisions of this Agreement by the Borrower and the Bank shall be entitled to rely exclusively on any such action or execution.

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 as of the day and year first above written.

International Bank for Reconstruction and Development :

By Eugene R. BLACK
President

The Tata Iron and Steel Company, Limited :

By E. T. WARREN
Authorized Representative

Countersigned:

Tata Industries Private Limited :

By E. T. WARREN
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>
October 1, 1960	\$3,000,000	April 1, 1966	\$960,000
April 1, 1961	3,000,000	October 1, 1966	989,000
October 1, 1961	3,000,000	April 1, 1967	1,019,000
April 1, 1962	3,000,000	October 1, 1967	1,049,000
October 1, 1962	3,000,000	April 1, 1968	1,081,000
April 1, 1963	804,000	October 1, 1968	1,113,000
October 1, 1963	828,000	April 1, 1969	1,147,000
April 1, 1964	853,000	October 1, 1969	1,181,000
October 1, 1964	879,000	April 1, 1970	1,216,000
April 1, 1965	905,000	October 1, 1970	1,253,000
October 1, 1965	932,000	April 1, 1971	1,291,000

* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any part of the principal amount of the Loan pursuant to Section 2.05 (b) of the Loan Regulations or on the redemption of any Bond prior to its maturity pursuant to Section 6.16 of the Loan Regulations :

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than 3 years before maturity	1/2%
More than 3 years but not more than 6 years before maturity	2%
More than 6 years but not more than 11 years before maturity	3 1/2%
More than 11 years but not more than 13 years before maturity	5%
More than 13 years before maturity	6%

SCHEDULE 2

DESCRIPTION OF PROJECT

The Project consists of the modernization and expansion of the Borrower's works at Jamshedpur, designed to increase their capacity to about 2,000,000 long tons of steel ingots and about 1,500,000 tons of semi-finished and finished steel products, the development of the Borrower's coal and ore mines, and related and ancillary works. The Project, subject to such additions and changes as may from time to time hereafter be agreed upon between the Bank and the Borrower, includes the following :

Part I: The Modernization and Expansion Program

This part of the Project was started in 1951 and was designed to increase the capacity of the Jamshedpur works to 930,000 tons of saleable steel products. It includes the replacement of one battery of coke ovens (completed in December 1953); the complete remodelling of the No. 3 steel melting shop (including the construction of five open hearth furnaces each of 185 tons capacity in place of three old furnaces); the modernization of the blooming mill (including the installation of a new electric drive); the improvement of the plate mill and of the 28" billet mill; the construction of a new continuous skelp mill (which started operation in March 1956); and extensions to the steam and power plants (which have been materially completed). This program is scheduled to be completed by May 31, 1958.

Part II: The Two Million Ton Program—Major Works

This part of the Project consists of the major works presently being undertaken at Jamshedpur as part of a program which, together with the Modernization and Expansion Program described in Part I above, and the related works described in Part III below, will increase the capacity of the Jamshedpur plant to about 2,000,000 tons of steel ingots and 1,500,000 tons of semi-finished and finished steel products. Engineering and other services for this part of the Project are to be furnished by Kaiser Engineers Division of Henry J. Kaiser Company and Kaiser Engineers Overseas Corp. This part of the Project includes :

Coke Plant: The construction of a new coke oven battery and the remodelling and expansion of the existing batteries to increase plant capacity from 3,120 tons of coke per day to 4,400 tons per day. By-product recovery facilities will be expanded.

Boiler and Power House: Expansion of the boiler and power house and the installation of two new boilers each with a capacity of 100,000 pounds of steam per hour and a 110,000 c.f.m. turboblower.

Sintering Plant: Installation of an ore crushing plant and a new sintering plant having a daily capacity of 4,000 tons of sinter.

Blast Furnace: Construction of a new blast furnace, with a daily capacity of 1,650 tons of pig iron. One existing furnace will be retired to stand-by status.

Steel Furnaces: Expansion of No. 3 melting shop by the addition of two 200 ton open hearth furnaces and one 32 ton converter. Increasing the capacity of the two converters and three of the five open hearth furnaces included in Part I above to 32 tons each and 200 tons each respectively. Addition of new ingot stripper facilities.

Rolling Mills: Erection of a new 46" blooming mill, complete with soaking pits, with an annual capacity of about 1,750,000 tons of slabs and blooms, a new continuous sheet bar and billet mill with an annual capacity of 460,000 tons, a new medium and light structural mill with an annual capacity of 320,000 tons and a new roll shop.

Other Facilities: Addition of a fourth kiln to the calcining plant, new ladle repair facilities, installation of cranes and other necessary handling equipment, and modification and substantial expansion of storage and other facilities and of the electrical distribution, water, fuel, road, transportation and communication systems.

The above works and facilities are scheduled to be completed by May 31, 1958.

Part III: Two Million Ton Program—Related Works

This part of the Project consists of those parts of the Two Million Ton Program not covered by Part II above. It is to be carried out, for the most part, departmentally by the Borrower and includes: site preparation; construction of material stockyards; remodelling and modernization of steel melting shops, calcining plants, sheet bar and billet mill, rail mill and merchant mill; construction of an ingot mould foundry; acquisition of rolling stock; colliery development; ore mine development; and housing construction at Jamshedpur. Most of these works are scheduled to be completed by June 30, 1960.

Part IV: Ancillary Works

This part of the Project consists of improvements and additions to the Borrower's facilities not forming part of the Two Million Ton Program, including the modernization of the bottom house and the construction of a new ferromanganese plant, a new refractories plant, a ferro-sulphide washing plant and a plant for the recovery of scrap from slag by the Heckett process. These works are scheduled to be completed by March 31, 1960.

Part V: Renewals and Replacements

This part of the Project consists of necessary renewals and replacements of existing plant and equipment.

SCHEDULE 3

MODIFICATIONS OF LOAN REGULATIONS No. 4

For the purposes of this Agreement the provisions of Loan Regulations No. 4 of the Bank, dated June 15, 1956, are modified as follows :

(1) Section 2.02 is deleted.

(2) Sub-sections (c), (i) and (j) of Section 5.02 are amended to read as follows :

“(c) A default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower or the Guarantor under the Loan Agreement, the Guarantee Agreement or the Bonds, or under the first Loan Agreement, the Guarantee Agreement dated June 26, 1956, or the bonds issuable under the first Loan Agreement.

“(i) On or after the date of the Loan Agreement and prior to the Effective Date there shall have been any act or omission to act which would have constituted a violation of any covenant contained in the Loan Agreement or the Guarantee Agreement if the Loan Agreement and Guarantee Agreement had been effective on the date of such act or omission.

“(j) If the security constituted by the 1957 Trust Deed or the Trust Deed shall become enforceable.”

(3) Section 6.01 is deleted.

(4) Section 6.04 is amended by substituting the words “interest (herein called the service charge)” for the words “a service charge” in the second sentence thereof.

(5) Section 6.07 is amended to read as follows :

“SECTION 6.07. *Form of Bonds.* (a) The Bonds shall be fully registered bonds without coupons (hereinafter sometimes called registered Bonds) or bearer bonds with coupons for semi-annual interest attached (hereinafter sometimes called coupon Bonds). Bonds delivered to the Bank shall be registered Bonds or coupon Bonds in such temporary or definitive form (authorized by the Trust Deed) as the Bank shall request. Registered Bonds and coupon Bonds payable in dollars and the coupons attached thereto shall be substantially in the forms respectively set forth in the Trust Deed. Bonds payable in any currency other than dollars shall be substantially in the forms respectively set forth in the Trust Deed, as the case may be, except that they shall (a) provide for payment of principal, interest and premium on redemption, if any, in such other currency, (b) provide for such place of payment as the Bank shall specify, and (c) contain such other modifications as the Bank shall reasonably request in order to conform to the laws or to the financial usage of the place where they are payable.

“(b) Notwithstanding any other provision of the Loan Agreement or these Regulations, if the Bank shall so require, the Borrower shall execute and deliver bonds pursuant to Section 6.03 before the execution and delivery of the Trust

Deed. The provisions of Section 6.07 of Loan Regulations No. 4 of the Bank, dated June 15, 1956, but before modification by sub-paragraph (a) of this Section, shall apply to the form of any such bonds, with appropriate changes therein satisfactory to the Bank, to provide for the exchange thereof, free of cost to the Bank, for Bonds of the same respective amounts, currencies and maturities issued under the Trust Deed, the Loan Agreement and these Regulations. All other provisions of the Loan Agreement, the Guarantee Agreement and these Regulations relating or referring to Bonds shall apply *mutatis mutandis* to such bonds except where such application would be clearly inconsistent with the requirements of this sub-paragraph.

“(c) All Bonds shall have the guarantee of the Guarantor endorsed thereon substantially in the form set forth in Schedule 3 to these Regulations.”

(6) The following sentence is added at the beginning of Section 6.09, namely :

“Except as the Bank and the Borrower shall otherwise agree, Bonds shall be dated as hereinafter in this Section provided.”

(7) The following new sub-section is added to Section 6.11 :

“(d) Subject to the provisions of Sections 6.05 and 6.06, Bonds payable in any currency may be exchanged without charge to the Bank for Bonds of the same or an equivalent aggregate principal amount payable in the same or any other currency or currencies and having the same or any other maturity or maturities. For the purposes of determining the equivalent of one currency in terms of another the value of each shall be as determined by the Bank.”

(8) The first sentence of Section 6.12 (a) is changed to read as follows :

“The Bonds shall be signed in the name and on behalf of the Borrower by its authorized representative designated pursuant to the Loan Agreement for the purposes of this Section.”

(9) Section 6.18 is deleted.

(10) In Section 7.01, after the words “Guarantee Agreement” where those words occur, the words, “the Trust Deed” are added.

(11) The following words of sub-section (c) of Section 7.04 are deleted :

“or, if they shall not agree, by the Guarantor”.

(12) Sub-section (j) of Section 7.04 is amended to read as follows :

“(j) The provisions for arbitration set forth in this Section shall be in lieu of any other procedure for the determination of controversies between the parties under the Loan Agreement and Guarantee Agreement or any claim by any such party against any other such party arising thereunder provided, however, that nothing herein shall be deemed to preclude any of the said parties from exercising, or instituting any legal or equitable action to enforce, any right or claim arising out of or pursuant to the Trust Deed or the Bonds, and submission to arbitration here-

under shall not be deemed to be a condition precedent or in any way to prejudice such exercise or other enforcement of any such right or claim.”

(13) Paragraph 6 of Section 10.01 is amended to read as follows :

“6. The term ‘Borrower’ means the party to the Loan Agreement to which the Loan is made; and the term ‘Guarantor’ means India, acting by its President.”

(14) Paragraph 10 of Section 10.01 is deleted and the following new paragraph is substituted therefor :

“The term ‘Bonds’ means Bonds issued and authenticated pursuant to the Trust Deed (except as otherwise provided in Section 6.07 (b)), with the guarantee of the Guarantor endorsed thereon as provided in the Loan Agreement and the Guarantee Agreement.”