

No. 6011

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

**Loan Agreement—*Private Sector Coal Production Project*
(with annexed Loan Regulations No. 3). Signed at
Washington, on 9 August 1961**

Official text: English.

*Registered by the International Bank for Reconstruction and Development on
20 December 1961.*

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

**Contrat d'emprunt — *Projet relatif à la production de
bouille dans le secteur privé* (avec, en annexe, le Règle-
ment n° 3 sur les emprunts). Signé à Washington, le
9 août 1961**

Texte officiel anglais.

*Enregistré par la Banque internationale pour la reconstruction et le développement
le 20 décembre 1961.*

No. 6011. LOAN AGREEMENT¹ (*PRIVATE SECTOR COAL PRODUCTION PROJECT*) BETWEEN INDIA AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 9 AUGUST 1961

AGREEMENT, dated August 9, 1961, between INDIA, acting by its President (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

Article I

LOAN REGULATIONS; SPECIAL DEFINITIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 3 of the Bank dated February 15, 1961,² subject, however, to the modifications thereof set forth in Section 1.02 of this Agreement (said Loan Regulations No. 3 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. (a) Paragraph 5 of Section 10.01 of the Loan Regulations is amended to read as follows :

“ 5. The term ‘ Borrower ’ means India, acting by its President. ”

(b) Section 5.03 of the Loan Regulations is amended to read as follows :

“ SECTION 5.03. *Cancellation by the Bank.* If (a) the right of the Borrower to make withdrawals from the Loan Account shall have been suspended with respect to any amount of the Loan for a continuous period of thirty days, or (b) if by the date specified in the Loan Agreement as the Closing Date in respect of any part of the Loan such part of the Loan shall not have been withdrawn from the Loan Account, the Bank may by notice to the Borrower terminate the right of the Borrower to make withdrawals with respect to such part of the Loan. Upon the giving of such notice such part of the Loan shall be cancelled. ”

Section 1.03. Wherever used in this Agreement, unless the context otherwise requires, the following terms shall have the following meanings :

¹ Came into force on 18 October 1961, upon notification by the Bank to the Government of India.

² See p. 316 of this volume.

1. The term "Project" shall mean the program for which the Loan is granted, as described in Schedule 2¹ to this Agreement and as the description thereof shall be amended from time to time by agreement between the Borrower and the Bank.

2. The term "Mining Enterprise" shall mean a coal mining enterprise of the private sector to which the Borrower, acting on the recommendations of the Screening Committee, shall have decided to make foreign exchange available out of the proceeds of the Loan for the purposes of the Project.

3. The term "Mining Project" shall mean a specific project, approved by the Bank as in Article III of this Agreement provided, for the expansion of coal production of a Mining Enterprise by : (a) the acquisition by such Mining Enterprise of coal mining equipment with foreign exchange made available out of the proceeds of the Loan and (b) the utilization of such equipment for (i) expansion of existing mines or (ii) opening of new mines.

4. The term "Screening Committee" shall mean a committee established and operating under terms of reference satisfactory to the Borrower and the Bank and composed of mining and financial experts representing the Borrower and the Mining Enterprises, among the functions of which shall be : (a) the examination of the Mining Projects and (b) recommendations of the Borrower for submission to the Bank in respect of (i) Mining Projects and (ii) the use of foreign exchange out of the proceeds of the Loan for the acquisition of goods for replacement and maintenance of existing equipment of Mining Enterprises.

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-five million dollars (\$35,000,000).

Section 2.02. The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Loan 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 and the Loan Regulations; provided, however, that, unless the Borrower and the Bank shall otherwise agree : (i) withdrawals in respect of each Mining Project approved by the Bank pursuant to Section 3.01 (c) of this Agreement shall not exceed the amount of foreign exchange allocated to such Mining Project in such approval; and (ii) no withdrawals shall be made on account of expenditures prior to April 1, 1961.

¹ See p. 314 of this volume.

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 five and three-fourths per cent ($5\frac{3}{4}$ %) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

Section 2.05. Except as the Borrower and the Bank 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 May 15 and November 15 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. (a) The Borrower shall cause the proceeds of the Loan to be applied exclusively to the provision of the foreign exchange required for the cost of goods needed to carry out (i) such Mining Projects as shall from time to time be approved by the Bank and (ii) part B (2) (ii) of the Project. The specific goods to be acquired with the proceeds of the Loan and the methods and procedures for procurement of such goods shall be determined by agreement between the Borrower and the Bank, subject to modification by further agreement between them.

(b) When submitting a Mining Project to the Bank for approval, the Borrower shall furnish or cause to be furnished to the Bank : (i) an application in form and substance satisfactory to the Bank and containing a statement of the amount of foreign exchange required for such Mining Project, (ii) a copy of the recommendations of the Screening Committee with respect to such Mining Project, (iii) a description of such Mining Project and (iv) such other information thereon as the Bank shall reasonably request whether before or after the Bank shall have given such approval.

¹ See p. 314 of this volume.

(c) Whenever the application of the Borrower for approval by the Bank of a Mining Project and the accompanying documents and other evidence and information thereon required by the Bank shall be satisfactory to the Bank, the Bank shall approve such Mining Project and the use of an amount in foreign exchange from the Loan estimated to be required therefor; provided, however, that, except as the Borrower and the Bank shall otherwise agree (i) the aggregate total amount so approved by the Bank for Mining Projects in respect of the opening of new mines shall not exceed the equivalent of five million dollars (\$5,000,000) and (ii) no Mining Project for expansion of existing mines shall be so approved by the Bank if foreign exchange out of the proceeds of the Loan shall be required therefor after March 31, 1963.

Section 3.02. Except as the Borrower and the Bank shall otherwise agree, the Borrower shall cause all goods acquired out of the proceeds of the Loan to be used in the territories of the Borrower exclusively in the carrying out of the Project.

Article IV

BONDS

Section 4.01. The Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in the Loan Regulations.

Section 4.02. A Secretary to the Government of India in the Ministry of Finance is designated as the authorized representative of the Borrower for the purposes of Section 6.12 of the Loan Regulations.

Article V

PARTICULAR COVENANTS

Section 5.01. (a) The Borrower shall cause the Project to be carried out with due diligence and efficiency and in conformity with sound engineering, mining and financial practices.

(b) The Borrower shall make or cause to be made available promptly as needed all sums in foreign exchange which shall be required for the carrying out of the Project.

(c) The Borrower shall provide, on reasonable terms, such adequate credit facilities, guarantees or other financial assistance to Mining Enterprises as shall reasonably be required to carry out the Project.

Section 5.02. (a) The Borrower shall exercise its rights in relation to each Mining Enterprise in such manner as to protect the interests of the Borrower and the Bank.

(b) The Borrower undertakes that any foreign exchange made available by it out of the proceeds of the Loan to a Mining Enterprise will be made available on terms whereby the Borrower shall obtain, by the written agreement of such Mining Enterprise or appropriate licensing or other legal means, rights adequate to protect the interests of the Borrower and the Bank, including the right to require such Mining Enterprise to carry out and operate its business with due diligence and efficiency and in accordance with sound engineering, mining and financial standards, including the maintenance of adequate records; the right to require that the goods to be acquired with the proceeds of the Loan shall be used exclusively for the purposes for which such foreign exchange was made available; the right of the Borrower and the Bank to inspect such goods and the sites, works and construction in which such goods are utilized, the operation thereof and any relevant records and documents; the right to require that such Mining Enterprise shall take out and maintain such insurance, against such risks and in such amounts, as shall be consistent with sound business practice, and that, except as the Bank may otherwise agree, insurance covering marine and transit hazards on the goods acquired out of the proceeds of the Loan shall be payable in dollars or in the currency in which the cost of the goods insured thereunder shall be payable; and the right to obtain all such information as the Borrower and the Bank shall reasonably request relating to the foregoing and to the operations and financial condition of such Mining Enterprise. Such rights shall include appropriate provision whereby further access by such Mining Enterprise to the proceeds of the Loan may be suspended or terminated by the Borrower upon failure by such Mining Enterprise to carry out the terms on which such proceeds have been made available.

Section 5.03. (a) The Borrower shall cause to be furnished to the Bank all such information as the Bank shall reasonably request concerning the Project, the Mining Enterprises, the Mining Projects, the Screening Committee and the expenditure of the proceeds of the Loan.

(b) The borrower shall cause to be maintained records adequate to record the progress of the Project and of each Mining Project (including the cost thereof).

Section 5.04. (a) The Borrower and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the 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 5.05. 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 or of any of its political subdivisions or of any agency of the Borrower 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 such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (ii) any 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 (iii) 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 5.06. 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 Borrower 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 imposed 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 Borrower.

Section 5.07. The Loan Agreement and the Bonds shall be free from any taxes (including duties, fees or impositions) 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 (including duties, fees or impositions), 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 5.08. 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 Borrower or laws in effect in its territories.

Section 5.09. The Borrower undertakes that it will cause the Screening Committee defined in paragraphe 4 of Section 1.03 of this Agreement to be established and to function in accordance with terms of reference satisfactory to the Borrower and the Bank.

Article VI

REMEDIES OF THE BANK

Section 6.01. (i) If any event specified in paragraph (a) or paragraph (b) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or (ii) of any event specified in paragraph (c) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Agreement or in the Bonds to the contrary notwithstanding.

Article VII

EFFECTIVE DATE; TERMINATION

Section 7.01. The following events are specified as additional conditions to the effectiveness of this Agreement within the meaning of Section 9.01 of the Loan Regulations :

(a) The Screening Committee to be established pursuant to Section 5.09 of this Agreement shall have been established and shall be functioning as required by such Section.

(b) Arrangements satisfactory to the Borrower and the Bank shall have been made by the Borrower to obtain such agreements or consents on the part of Mining Enterprises as shall be required in order to comply with the provisions of Section 5.02 of this Agreement.

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

Article VIII

MISCELLANEOUS

Section 8.01. Except as the Borrower and the Bank shall otherwise agree (i) the Closing Date in respect of amounts approved by the Bank for Mining

Projects for the opening of new mines shall be September 30, 1965, and (ii) the Closing Date in respect of all other amounts in the Loan Account shall be July 31, 1963.

Section 8.02. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower :

The Secretary to the Government of India
Ministry of Finance, Department of Economic Affairs
New Delhi, India

Alternative address for cablegrams and radiograms :

Ecofairs
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 8.03. 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 Loan Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

India :

By D. N. CHATTERJEE
Authorized Representative

International Bank for Reconstruction and Development :

By W. A. B. ILIFF
Vice President

SCHEDULE 1 AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars) *</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars) *</i>
May 15, 1966	\$1,237,000	Nov. 15, 1971	\$1,690,000
Nov. 15, 1966	1,273,000	May 15, 1972	1,738,000
May 15, 1967	1,309,000	Nov. 15, 1972	1,788,000
Nov. 15, 1967	1,347,000	May 15, 1973	1,840,000
May 15, 1968	1,386,000	Nov. 15, 1973	1,892,000
Nov. 15, 1968	1,425,000	May 15, 1974	1,947,000
May 15, 1969	1,466,000	Nov. 15, 1974	2,003,000
Nov. 15, 1969	1,508,000	May 15, 1975	2,060,000
May 15, 1970	1,552,000	Nov. 15, 1975	2,120,000
Nov. 15, 1970	1,596,000	May 15, 1976	2,181,000
May 15, 1971	1,642,000		

* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.03), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

PREMIUMS ON PREPAYMENT AND REDEMPTION

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

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than three years before maturity	½ of 1%
More than three years but not more than six years before maturity	2%
More than six years but not more than eleven years before maturity	3 ½%
More than eleven years but not more than thirteen years before maturity	4 ¾%
More than thirteen years before maturity	5 ¾%

SCHEDULE 2 DESCRIPTION OF THE PROJECT

A. The Project is a program, extending from April 1, 1961, to March 31, 1966, for the maintenance and expansion of coal production by the private sector in India with a view to increasing the annual rate of such production by about 16 million long tons by March 31, 1966, and on which the Borrower will make expenditures in foreign exchange of the order of \$60 million equivalent.

B. The Project includes :

- (1) the acquisition by Mining Enterprises of coal mining equipment such as coal cutters, loaders, conveyors, locomotives, haulages, winders, sand stowing facilities, electrical and steam equipment, wire rope and other items normally used in coal mining operations; and
- (2) the utilization of such equipment (i) in Mining Projects and (ii) for the replacement and maintenance of existing equipment of Mining Enterprises.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 3, DATED 15 FEBRUARY 1961

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO MEMBER GOVERNMENTS

[*Not published herein. See United Nations, Treaty Series, Vol. 414.*]