
LOAN NUMBER 239 JA

Loan Agreement

(Yawata Steel: Tobata Project)

BETWEEN

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

AND

THE JAPAN DEVELOPMENT BANK

DATED NOVEMBER 12, 1959

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DATED NOVEMBER 12, 1959

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AGREEMENT, dated November 12, 1959, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and THE JAPAN DEVELOPMENT BANK (hereinafter called the Borrower).

WHEREAS (A) The Bank has been requested to grant a loan to the Borrower, the proceeds of which the Borrower intends to relend to Yawata Iron & Steel Co., Ltd. (hereinafter called Yawata) for the purposes of the Project;

(B) The Guarantor has agreed to guarantee the obligations of the Borrower as provided in a Guarantee Agreement of even date made between the Guarantor and the Bank;

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

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Loan Regulations; Special 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, subject, however, to the modifications thereof set forth in Schedule 3 to this 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 fully set forth herein.

SECTION 1.02. Unless the context shall otherwise require, the following terms shall have the following meanings:

(a) The term "First Loan Agreement" means the agreement between the Bank and the Borrower dated October 25, 1955.

(b) The term "Second Subsidiary Loan Agreement" means the agreement between the Borrower and Yawata referred to in Section 5.06 of this Loan Agreement.

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 twenty million dollars (\$20,000,000).

SECTION 2.02. The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Account the amount of the Loan. The amount of the Loan may be withdrawn from the Loan Account as provided, and subject to the rights of cancellation and suspension set forth, herein and in the Loan Regulations.

SECTION 2.03. (a) The Borrower shall be entitled to withdraw from the Loan Account (i) such amounts as shall have been expended for the reasonable cost of imported goods to be financed under this Loan Agreement; and (ii), if the Bank shall so agree, such amounts as shall be required to meet the reasonable cost of such imported goods.

(b) In addition to withdrawals permitted pursuant to Section 2.03(a), the Borrower shall be entitled to withdraw from the Loan Account, in such currencies and at such times as shall be agreed upon between the Bank and the Borrower, amounts which shall have been otherwise expended, or which are so to be expended, on the Project.

SECTION 2.04. 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 2.05. 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 2.06. 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 2.07. Interest and other charges shall be payable semi-annually on January 15 and July 15 in each year.

SECTION 2.08. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1 to this Agreement.

ARTICLE III

Use of Proceeds of the Loan

SECTION 3.01. The Borrower shall cause the proceeds of the Loan to be applied to financing the cost of imported goods and other expenditures required to carry out the Project described in Schedule 2 to this Agreement. The specific imported 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 used exclusively in the carrying out of the Project.

ARTICLE IV**Bonds**

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

SECTION 4.02. The Governor of the Borrower and such person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 6.12 (a) of the Loan Regulations.

ARTICLE V**Particular Covenants**

SECTION 5.01. (a) The Borrower shall carry on its operations and conduct its affairs in accordance with sound business and financial practices.

(b) The Borrower shall exercise its rights under the Second Subsidiary Loan Agreement so as to cause the Project to be carried out with due diligence and efficiency and in conformity with sound engineering and financial practices and so as to cause the operations of Yawata to be carried on in accordance with sound business and financial practices.

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

(d) 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 all transactions between the Borrower and Yawata and the operations

and financial condition of the Borrower and of Yawata; shall enable or take such steps as may be necessary to enable the Bank's representatives to inspect the Project, Yawata's properties, the goods and any relevant records and documents; and shall furnish or cause to be furnished to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, the goods, all transactions between the Borrower and Yawata and the operations and financial condition of the Borrower and of Yawata.

SECTION 5.02. (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.

SECTION 5.03. The Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower as security for any debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

SECTION 5.04. The Borrower shall pay or cause to be paid all taxes or fees, if any, imposed under the laws of the Guarantor or laws in effect in the territories of the Guarantor on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement or the Bonds, or the payment of principal, interest or other charges thereunder; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

SECTION 5.05. The Borrower shall pay or cause to be paid all taxes and fees, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement or the Bonds.

SECTION 5.06. All moneys withdrawn from the Loan Account shall be lent by the Borrower to Yawata. Such loan shall be made upon terms which shall be satisfactory to the Bank and be embodied in a second subsidiary loan agreement between the Borrower and Yawata. This Second Subsidiary Loan Agreement shall provide, *inter alia*, that the Borrower shall receive from Yawata, as security for its advances to Yawata thereunder, such lien or liens as may be consistent with the Borrower's established practice.

SECTION 5.07. Except as the Bank shall otherwise agree, the Borrower shall exercise its rights under the Second Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Bank; and (except as aforesaid) the Borrower shall not amend, assign, abrogate or waive any provision of the Second Subsidiary Loan Agreement; provided, however, that the agreement of the Bank shall not be required in respect of the following:

- (a) the amendment, abrogation or waiver, or the making of any agreement or giving of any consent in respect of any provision of the Second Subsidiary Loan Agreement relating to (i) any guarantor thereunder or (ii) damages for non-performance by Yawata;
- (b) the amendment or waiver, or the making of any agreement or giving of any consent in respect of provisions of the Second Subsidiary Loan Agreement relating to insurance or security; provided that such amendment, waiver or consent does not affect such provisions of the Second Subsidiary Loan Agreement in a manner which would depart from the established practices of the Borrower.

The Borrower shall advise the Bank promptly of any action or amendment taken in respect of the Second Subsidiary Loan Agreement pursuant to the provisions of the foregoing subsections (a) and (b).

SECTION 5.08. It is the mutual intention of the Borrower and the Bank that to the extent that Yawata shall prepay the Borrower its indebtedness under the Second Subsidiary Loan Agreement, the Borrower shall to a correspondingly proportionate extent prepay the Bank under this Loan Agreement. Accordingly, unless otherwise agreed between the Borrower and the Bank, if Yawata shall repay in advance of maturity any part of its indebtedness to the Borrower under the Second Subsidiary Loan Agreement, then the Borrower shall thereupon repay to the Bank, in advance of maturity, an amount being such proportion of the principal amount of the Loan then outstanding as the amount so repaid to the Borrower by Yawata bears to the total principal amount owing by Yawata under the Second Subsidiary Loan Agreement immediately prior to such repayment; provided that, in computing any such total principal amounts, there shall be deducted any amount paid, contemporaneously with such repayment, in accordance with the amortization schedule set forth in Schedule 1 to this Agreement. To any repayment by the Borrower in accordance

with this Section, all the provisions of the Loan Regulations relating to repayment in advance of maturity shall be applicable.

SECTION 5.09. Except as shall be otherwise agreed between the Bank and the Borrower, the Borrower shall insure or cause to be insured the goods financed out of the proceeds of the Loan against risks incident to their purchase and importation into the territories of the Guarantor, Such insurance shall be consistent with sound commercial practice and shall be payable in dollars or in the currency in which the cost of the goods shall be payable.

ARTICLE VI

Remedies of the Bank

SECTION 6.01. (i) If any event specified in paragraph (a), paragraph (b), paragraph (e) or paragraph (f) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or (ii) if any event specified in Section 6.02 of this Agreement for the purposes of Section 5.02 (j) of the Loan Regulations shall occur and shall continue for a period of thirty days 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 or in the Bonds to the contrary notwithstanding.

SECTION 6.02. For the purpose of Section 5.02 (j) of the Loan Regulations the following events are specified:

- (a) If there shall have occurred any event specified or referred to in Section 6.01 of the First Loan Agreement.

- (b) If there shall have occurred any event specified in the Second Subsidiary Loan Agreement as an event of default.

ARTICLE VII

Effective Date; Termination

SECTION 7.01. The following event is specified as an additional condition to the effectiveness of this Agreement within the meaning of Section 9.01 (a) (ii) of the Loan Regulations, namely, that the Second Subsidiary Loan Agreement, in form and substance satisfactory to the Bank, shall have been duly executed and delivered as between the parties thereto and have become fully effective in accordance with its terms.

SECTION 7.02. 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 Yawata has full power and authority to construct and operate the Project and has all necessary rights and powers in connection therewith and that all acts, consents, validations and approvals necessary therefor have been duly and validly performed or given;
- (b) that the Second Subsidiary Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and Yawata respectively that all acts, consents, validations and approvals necessary under the laws of Japan, or under the terms of the Second Subsidiary Loan Agreement, to render the Second Subsidiary Loan Agreement valid and effective have been duly performed or given, and that the Second Subsidiary Loan Agreement constitutes a valid and binding obligation of the Borrower and of Yawata respectively in accordance with its terms.

SECTION 7.03. 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. The Closing Date shall be December 31, 1961.

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

For the Borrower :

The Japan Development Bank
8, 1-chome Marunouchi
Chiyoda-ku
Tokyo, Japan

Alternative address for cablegrams and radiograms :

Devebank
Tokyo

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.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective

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

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ J. BURKE KNAPP
Vice-President

THE JAPAN DEVELOPMENT BANK

By /s/ TEIZO ICHIDA
Authorized Representative

SCHEDULE 1
Amortization Schedule

Date Payment Due	Payment of Principal (expressed in dollars)*
January 15, 1962	\$491,000
July 15, 1962	506,000
January 15, 1963	521,000
July 15, 1963	537,000
January 15, 1964	553,000
July 15, 1964	570,000
January 15, 1965	587,000
July 15, 1965	604,000
January 15, 1966	622,000
July 15, 1966	641,000
January 15, 1967	660,000
July 15, 1967	680,000
January 15, 1968	700,000
July 15, 1968	721,000
January 15, 1969	743,000
July 15, 1969	766,000
January 15, 1970	788,000
July 15, 1970	812,000
January 15, 1971	836,000
July 15, 1971	862,000
January 15, 1972	887,000
July 15, 1972	914,000
January 15, 1973	941,000
July 15, 1973	970,000
January 15, 1974	999,000
July 15, 1974	1,029,000
January 15, 1975	1,060,000

*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 is part of a plan for the expansion and modernization of Yawata's production facilities, which plan is designed to increase Yawata's annual productive capacity to about 3,400,000 tons of pig iron and about 5,250,000 tons of ingot steel, with corresponding expansion and modernization of finishing facilities.

The Project consists of the construction of two blast furnaces, a converter plant and a slabbing mill at Tobata; it comprises the following:

Blast Furnaces: The construction and installation of two 1,500 tons per day blast furnaces with all their auxiliary facilities, including ore handling and preparation equipment.

Sintering Plant: The construction and installation of a 3,500 tons per day sintering plant of the Dwight Lloyd type.

Coke Plant: The construction and installation of two batteries of coke ovens with 96 ovens each, including coal handling and preparation equipment and the installation of a coal yard.

Converter Plant: The construction and installation of three sets of 60-ton oxygen top blowing converters with waste heat boiler and dust-catching equipment, of two 4,500 cubic meter per hour oxygen generating plants, of two 1,350 ton mixers and all auxiliary facilities.

Slabbing Mill: The construction and installation of a 48" slabbing mill with all its auxiliary facilities, including four sets of soaking pits.

Power Plant: The construction and installation of a power plant with two generators of 25,000 kw. each and all auxiliary facilities.

It is expected that the Project will be completed by December 31, 1960.

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, shall be deemed to be modified as follows:

(a) By the deletion of Section 2.02.

(b) By the addition to Section 3.05, at the end thereof, of the following sentence:

“If a withdrawal is applied for on account of expenditures in the currency of the Guarantor, the value of the currency of the Guarantor in terms of the currency or currencies to be withdrawn shall be as reasonably determined by the Bank”.

(c) By the deletion of Section 4.01 and the substitution therefor of the following Section:

“*Withdrawal from the Loan Account.* Except as shall be otherwise agreed between the Bank and the Borrower, no withdrawals shall be made on account of expenditures prior to April 1, 1959, or on account of expenditures in the territories of any country which is not a member of the Bank or for goods produced in (including services supplied from) such territories.*”

(d) By the addition to Section 4.03 at the end thereof of the words “and/or in relation to expenditures on the Project”.

(e) By the deletion of Section 9.03 and the substitution therefor of the following Section:

“*Effective Date.* Except as shall be otherwise agreed by the Bank and the Borrower, the Loan Agreement and Guarantee Agreement shall come into force and effect on the date upon which the Bank shall send to the Borrower and to the Guarantor notice of its acceptance of the evidence required by Section 9.01.”

(f) By the deletion in Section 10.01 of paragraph 12 and the substitution therefor of the following new paragraph, namely:

“12. The term ‘Project’ means the project, for which the Loan is granted, as described in Schedule 2 to this Agreement and as the description thereof shall be amended from time to time by agreement between the Bank and the Borrower with the concurrence of the Guarantor.”

(g) Paragraph 14 of Section 10.01 is changed to read as follows:

“14. The term ‘external debt’ means any debt payable in any medium other than currency of the Guarantor whether such debt is or may become payable absolutely or at the option of the creditor in such other medium.”