
LOAN NUMBER 438 NZ

Loan Agreement

(Railway Project)

BETWEEN

NEW ZEALAND

AND

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

DATED DECEMBER 17, 1965



Loan Agreement

AGREEMENT, dated December 17, 1965 between NEW ZEALAND (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank), which Agreement, for the purposes of the New Zealand Loans Act, 1953, is recognized by the parties hereto to be a security.

ARTICLE I

Loan Regulations; Special Definition

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 subject, however, to the following modification thereof (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 9.04 is deleted.

SECTION 1.02. Unless the context otherwise requires, the term "Railways" wherever used in this Loan Agreement means the Department of Railways of the Borrower and any successor thereto.

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 forty-two million dollars (\$42,000,000).

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 The amount of the Loan may be withdrawn from the Loan Account as provided in, and subject to the rights of cancellation and suspension set forth in, the Loan Agreement.

SECTION 2.03. The Borrower shall pay to the Bank a commitment charge at the rate of three-eighths of one per cent ($\frac{3}{8}$ of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time.

SECTION 2.04. The Borrower shall pay interest at the rate of six and one-quarter per cent ($6\frac{1}{4}\%$) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.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 commitment outstanding from time to time.

SECTION 2.06. Interest and other charges shall be payable semiannually on April 15 and October 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 1 to this Agreement.

SECTION 2.08. Notwithstanding the provisions of Sections 3.03 and 3.04 of the Loan Regulations the Bank and the Borrower may from time to time agree that any portion of the Loan payable in one currency may be made payable in one or more other currencies and from the date specified in such agreement such portion of the Loan and the principal of any Bond representing such portion of the Loan and any premiums and interest payable on or with respect thereto shall be payable in such other currency or currencies.

ARTICLE III

Use of Proceeds of Loan; Withdrawals

SECTION 3.01. The Borrower shall cause the proceeds of the Loan to be applied 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 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.

SECTION 3.02. The Borrower shall make the proceeds of the Loan available to the Railways upon the same financial terms as the Loan and upon other conditions satisfactory to the Borrower and the Bank.

SECTION 3.03. The Borrower shall cause all goods financed out of the proceeds of the Loan to be imported into the territories of the Borrower and there to be used exclusively in the carrying out of the Project.

SECTION 3.04. Pursuant to Section 4.01 of the Loan Regulations, withdrawals from the Loan Account may be made on account of expenditures made before the Effective Date but subsequent to September 30, 1964.

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 Minister of Finance 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 of the Loan Regulations.

SECTION 4.03. Notwithstanding the provisions of Section 6.06 of the Loan Regulations, the Bank may from time to time request pursuant to Section 6.03 or Section 6.11 of the Loan Regulations, and the Borrower shall execute and deliver, Bonds providing: (a) for the payment on a single date of two or more maturities, or parts thereof, specified

in such request, of instalments of the principal amount of the Loan set forth in Schedule 1 to this Agreement; (b) that the principal amount of each such Bond shall be payable in a single currency on the date of the latest maturity of the instalments specified in such request; (c) that as a sinking fund for such Bonds the Borrower will, on each date specified in Schedule 1 to this Agreement as the maturity of an instalment of the portion, or all, of the Loan represented by such Bonds, redeem a principal amount of such Bonds equal to the amount of such instalment; (d) that the Bonds to be redeemed in whole or in part shall be selected by lot; (e) that no premium shall be payable on such redemption; (f) that, on or before any such redemption date, the Borrower may credit against the principal amount of Bonds so to be redeemed the principal amount of any Bonds issued pursuant to such request which shall have been purchased or otherwise acquired and retired by the Borrower prior to such date and which shall not previously have been credited against any sinking fund obligation; and (g) that all Bonds redeemed pursuant to, or credited against, any sinking fund obligation shall be retired and shall not be reissued. All the provisions of this Article IV and of Article VI of the Loan Regulations shall apply to such Bonds except that such appropriate changes shall be made in the forms of Bonds and the guarantee to be endorsed thereon by the Guarantor as the Bank shall reasonably request in order to give effect to the provisions of this Section 4.03.

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 and financial practices.

(b) Upon request from time to time by the Bank, the Borrower shall promptly furnish to the Bank the plans and specifications for the Project and any material modifications subsequently made therein, in such detail as the Bank shall from time to time request.

(c) The Borrower shall: (i) maintain or cause to be maintained records adequate to show the expenditure of the proceeds of the Loan, to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project and the total expenditures on the Project, to record the progress of the Project and to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the agency or agencies of the Borrower responsible for carrying out the Project or any part thereof; (ii) enable the Bank's representatives to inspect the Project, the goods, the properties of the Railways and any relevant records and documents; and (iii) furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, the goods, and the operations and financial condition of the agency or agencies responsible for the carrying out of the Project or any part thereof.

SECTION 5.02. The Borrower and the Bank shall cooperate fully to ensure that the purposes of the Loan will be accomplished. To that end:

- (a) The Borrower and the Bank shall from time to time, at the request of either party, exchange views through their representatives with regard to the progress of the Project, the performance by the Borrower of its obligations under the Loan Agreement, the administration, operations and financial condition of the agency or agencies of the Borrower responsible for the carrying out of the Project or any part thereof and to financial and economic conditions in the territories of the Borrower and the international balance of payments position of the Borrower.
- (b) 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, the maintenance of the service thereof

or the performance by the Borrower of its obligations under the Loan Agreement.

- (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 5.03. The Borrower shall cause the Railways to carry on its operations under capable management and in conformity with sound engineering, financial and railway practices.

SECTION 5.04. It is the mutual intention of the Borrower and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower as security for any external debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (ii) any lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods; (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term "assets of the Borrower" as used in this Section includes assets of the Borrower or of any of its political subdivisions or of any agency of the Borrower or of any such political subdivision, including the Reserve Bank of New Zealand and any other institution performing the functions of a central bank.

SECTION 5.05. 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 imposed under the laws of the Borrower or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Borrower.

SECTION 5.06. The Loan Agreement and the Bonds shall be free from any taxes that shall be imposed under the laws of the Borrower or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof and the Borrower shall pay all such taxes, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries.

SECTION 5.07. 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 5.08. Except as the Borrower and the Bank shall otherwise agree, the Borrower shall insure or cause to be insured the goods against marine, transit and other hazards incident to their acquisition and their importation and delivery to the place of use or installation, and any indemnity shall be payable in a currency freely usable to replace or repair such goods.

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) 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.

ARTICLE VII

Miscellaneous

SECTION 7.01. If this Loan Agreement shall not have come into force and effect by February 18, 1966 this Loan Agreement and all obligations of the parties hereunder shall terminate, unless the Bank, after consideration of the reasons for the delay, establishes a later date for the purposes of this Section. The Bank shall promptly notify the Borrower of such later date.

SECTION 7.02. The Closing Date shall be December 31, 1969 or such other date as may from time to time be agreed between the Borrower and the Bank.

SECTION 7.03. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations:

For the Borrower:

Secretary to the Treasury
P.O. Box 5010
Wellington C.1, New Zealand

Alternative address for cables and radiograms:

Galvanize
Wellington

For the Bank:

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

Alternative address for cables and radiograms:

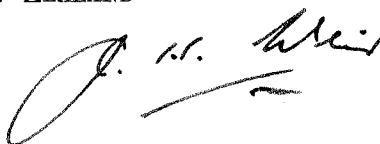
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Washington, D.C.

SECTION 7.04. The Minister of Finance of the Borrower 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.

NEW ZEALAND

By



Authorized Representatives

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT



By

President

SCHEDULE 1
Amortization Schedule

Date Payment Due	Payment of Principal (expressed in dollars)*
April 15, 1970	1,355,000
October 15, 1970	1,400,000
April 15, 1971	1,440,000
October 15, 1971	1,485,000
April 15, 1972	1,535,000
October 15, 1972	1,580,000
April 15, 1973	1,630,000
October 15, 1973	1,680,000
April 15, 1974	1,735,000
October 15, 1974	1,790,000
April 15, 1975	1,845,000
October 15, 1975	1,900,000
April 15, 1976	1,960,000
October 15, 1976	2,025,000
April 15, 1977	2,085,000
October 15, 1977	2,150,000
April 15, 1978	2,220,000
October 15, 1978	2,290,000
April 15, 1979	2,360,000
October 15, 1979	2,435,000
April 15, 1980	2,510,000
October 15, 1980	2,590,000

* 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	1/2%
More than three years but not more than six years before maturity	2 1/4%
More than six years but not more than eleven years before maturity	3 3/4%
More than eleven years but not more than thirteen years before maturity	5%
More than thirteen years before maturity ..	6 1/4%

SCHEDULE 2**Description of the Project**

The Project, which is intended to modernize and improve the facilities of the Railways, to increase the efficiency of its operations and improve its finances, is that part of its Investment Plan (April 1, 1965-March 31, 1971) that relates to the procurement of motive power, rolling stock and a ferry boat in the four-year period ending March 31, 1969. It includes the procurement of about 130 diesel locomotives, 7 electric locomotives, 2,300 freight wagons, a ferry boat for Cook Strait and miscellaneous vehicle equipment and parts, and the procurement, or manufacture in New Zealand, of about 2,400 freight wagons, 20 diesel shunters and 8 tractors.