

No. 3728

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

**Guarantee Agreement—Second Port Project (with annexed  
Loan Regulations No. 4 and Loan Agreement—Second  
Port Project—between the Bank and the Port Authority  
of Thailand). Signed at Washington, on 12 October  
1956**

*Official text: English.*

*Registered by the International Bank for Reconstruction and Development on  
14 March 1957.*

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

**Contrat de garantie — Deuxième Projet relatif à des ins-  
tallations portuaires (avec, en annexe, le Règlement  
n° 4 sur les emprunts et le Contrat d'emprunt  
— Deuxième Projet relatif à des installations por-  
tuaires — entre la Banque et la Direction des ports  
de Thaïlande). Signé à Washington, le 12 octobre  
1956**

*Texte officiel anglais.*

*Enregistré par la Banque internationale pour la reconstruction et le développement  
le 14 mars 1957.*

No. 3728. GUARANTEE AGREEMENT<sup>1</sup> (*SECOND PORT PROJECT*) BETWEEN THE KINGDOM OF THAILAND AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 12 OCTOBER 1956

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AGREEMENT, dated October 12, 1956, between KINGDOM OF THAILAND (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 and Port Authority of Thailand (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,<sup>2</sup> the Bank has agreed to make to the Borrower a loan in various currencies in an aggregate principal amount equivalent to three million four hundred thousand dollars (\$3,400,000), 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 and the obligations of the Borrower in respect thereof; and

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 the obligations of the Borrower in respect thereof;

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<sup>2</sup> (said Loan Regulations No. 4 being hereinafter called the Loan Regulations), with the same force and effect as if they 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

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<sup>1</sup> Came into force on 26 February 1957, upon notification by the Bank to the Government of Thailand.

<sup>2</sup> See p. 126 of this volume.

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, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, and the punctual performance of all the covenants and agreements of the Borrower, all as set forth in the Loan Agreement and in the Bonds.

*Section 2.02.* Without limitation or restriction upon the provisions of Section 2.01 of this Agreement, the Guarantor specifically undertakes, whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for carrying out the Project, to make arrangements, satisfactory to the Bank, promptly to provide the Borrower or cause the Borrower to be provided with such funds as are needed to meet such expenditures.

### 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 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; or (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 Guarantor" as used in this Section includes assets of the Guarantor or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision, including the Bank of Thailand.

*Section 3.02.* (a) The Guarantor 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 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 interferes with, or threatens 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 or fees 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 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 3.04.* This Agreement, the Loan Agreement and the Bonds shall be free from any taxes or fees 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 covenants that it will not take or permit any of its political subdivisions or any of its agencies or any agency of any political subdivision to take any action which would prevent or interfere with the performance by the Borrower of any of the covenants, agreements and obligations of the Borrower in the Loan Agreement contained, and will take or cause to be taken all reasonable action which shall be necessary in order to enable the Borrower to perform such covenants, agreements and obligations.

*Section 3.07.* The capital, operating and maintenance expenditures incurred in the maintenance of the channel through the bar at the mouth of the Chao Phya River shall be for the account of the Guarantor.

#### *Article IV*

*Section 4.01.* The Guarantor shall endorse, in accordance with the provisions of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. The Minister of Finance of the Guarantor and such

person or persons as he shall designate in writing are designated as the authorized representatives 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 :

Ministry of Finance  
Bangkok, Thailand

Alternative cable address :

Minance  
Bangkok, Thailand

For the Bank :

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

Alternative cable address :

Intbafrad  
Washington, D. C.

*Section 5.02.* The Minister of Finance of the Guarantor 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 in the District of Columbia, United States of America, as of the day and year first above written.

Kingdom of Thailand :

By P. SARASIN  
Authorized Representative

International Bank for Reconstruction and Development :

By W. A. B. ILIFF  
Vice 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  
MEMBERS GOVERNMENTS

[Not published herein. See *United Nations, Treaty Series, Vol. 260, No. 3721.*]

LOAN AGREEMENT (*SECOND PORT PROJECT*)

AGREEMENT, dated October 12, 1956, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and PORT AUTHORITY OF THAILAND (hereinafter called the Borrower), an autonomous body established by The Port Authority of Thailand Act, B.E. 2494.

*Article I*

## LOAN REGULATIONS

*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<sup>1</sup> (said Loan Regulations No. 4 being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

*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 three million four hundred thousand dollars (\$3,400,000).

*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 Regulations.

*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.

*Section 2.04.* The Borrower shall pay interest at the rate of four and three-fourths per cent ( $4\frac{3}{4}$  %) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

<sup>1</sup> See above.

*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 ( $1/2$  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 February 15 and August 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<sup>1</sup> 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<sup>1</sup> 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, except as the Bank shall otherwise agree, there 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 Chairman of the Board of Commissioners 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 Borrowers shall carry out the Project, maintain and operate its properties and carry on its operations with due diligence and efficiency and in conformity with sound engineering, financial and business practices.

<sup>1</sup> See p. 136 of this volume.

(b) The Borrower shall furnish to the Bank, promptly upon their preparation, 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 maintain records adequate to disclose the use of the goods 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 financial condition and operations of the Borrower; shall enable the Bank's representatives to inspect the Project, the goods and any relevant records and documents; and shall 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 financial condition and operations of the Borrower.

*Section 5.02.* (a) The Bank and the Borrower shall cooperate fully to assure that the purpose 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, of 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.* Except as shall be otherwise agreed between the Bank and the Borrower, the Borrower shall insure or cause to be insured the goods financed with 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 insured thereunder shall be payable.

*Section 5.07.* The Borrower shall from time to time adjust its rates so as to provide, within the limits of sound commercial practice, revenues sufficient : (a) to cover operating expenses other than those incurred by the Borrower in the maintenance of the channel through the bar at the mouth of the Chao Phya River referred to in Schedule 2 to this Agreement ; (b) to meet repayments on long-term indebtedness to the extent that such repayments shall exceed provision for depreciation ; and (c) to provide adequate reserves.

For the purposes of this Section the term "operating expenses" shall be deemed to include provision for adequate maintenance and depreciation, taxes and interest.

#### *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 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, than 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 event is specified as an additional condition to the effectiveness of this Agreement within the meaning of Section 9.01 (a) (ii) and Section 9.01 (b) (ii) of the Loan Regulations :

the Borrower shall have been granted by all necessary governmental action, including the amendment of The Port Authority of Thailand Act, B.E. 2494, all such powers and authority as are necessary or requisite to enable it to carry out the Project.

*Section 7.02.* The following is specified as an additional matter, 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 :

that the powers and authority referred to in Section 7.01 have been validly granted and that the same are valid and subsisting.

*Section 7.03.* A date 60 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 March 31, 1958.

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

For the Borrower :

Port Authority of Thailand  
Bangkok, Thailand

Alternative cable address :

Pat  
Bangkok, Thailand

For the Bank :

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

Alternative cable address :

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* W. A. B. ILIFF  
Vice Président

Port Authority of Thailand :

*By* T. DEVAKUL  
Authorized Representative

## SCHEDULE 1

## AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Principal Amount Outstanding After Each Payment (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Principal Amount Outstanding After Each Payment (expressed in dollars)*</i>
February 15, 1958	—	\$3,400,000	February 15, 1965	\$124,000	\$1,905,000
August 15, 1958	\$ 91,000	3,309,000	August 15, 1965	127,000	1,778,000
February 15, 1959	93,000	3,216,000	February 15, 1966	130,000	1,648,000
August 15, 1959	96,000	3,120,000	August 15, 1966	133,000	1,515,000
February 15, 1960	98,000	3,022,000	February 15, 1967	136,000	1,379,000
August 15, 1960	100,000	2,922,000	August 15, 1967	139,000	1,240,000
February 15, 1961	103,000	2,819,000	February 15, 1968	143,000	1,097,000
August 15, 1961	105,000	2,714,000	August 15, 1968	146,000	951,000
February 15, 1962	108,000	2,606,000	February 15, 1969	149,000	802,000
August 15, 1962	110,000	2,496,000	August 15, 1969	153,000	649,000
February 15, 1963	113,000	2,383,000	February 15, 1970	157,000	492,000
August 15, 1963	115,000	2,268,000	August 15, 1970	160,000	332,000
February 15, 1964	118,000	2,150,000	February 15, 1971	164,000	168,000
August 15, 1964	121,000	2,029,000	August 15, 1971	168,000	—

\* 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 these columns 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 . . . . .	1/4 %
More than 3 years but not more than 6 years before maturity . . . . .	1 %
More than 6 years but not more than 11 years before maturity . . . . .	2 1/4 %
More than 11 years but not more than 13 years before maturity . . . . .	3 1/2 %
More than 13 years before maturity . . . . .	4 3/4 %

## SCHEDULE 2

## DESCRIPTION OF PROJECT

The Project consists of the maintenance by the Borrower of (i) the port basin at Klung Toi, and (ii) the channel through the bar at the mouth of the Chao Phya River,

so as to accommodate vessels up to 10,000 DWT. To this end the Borrower will acquire, operate and maintain :

- (a) one 2,000 cubic meter hopper dredge to be operated primarily in the bar channel ;
  - (b) one 750 cubic meter hopper dredge with pumping equipment for unloading, and one clamshell dredge with a capacity of about 3 cubic yards, both to be operated primarily in the port basin ; and
  - (c) auxiliary equipment for the foregoing.
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