

No. 5983

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

Guarantee Agreement—*Third Railway Project* (with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and the State Railway of Thailand). Signed at Washington, on 28 April 1961

Official text: English.

Registered by the International Bank for Reconstruction and Development on 1 December 1961.

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

Contrat de garantie — *Troisième projet relatif aux chemins de fer* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et les Chemins de fer nationaux de Thaïlande). Signé à Washington, le 28 avril 1961

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 1^{er} décembre 1961.

No. 5983. GUARANTEE AGREEMENT¹ (*THIRD RAILWAY PROJECT*) BETWEEN THE KINGDOM OF THAILAND AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 28 APRIL 1961

AGREEMENT, dated April 28, 1961, 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 the State Railway of Thailand (hereinafter called the Borrower), 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 equivalent to twenty-two million dollars (\$22,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided ; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed so to guarantee such obligations of the Borrower ;

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 February 15, 1961² (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 guarantees, as primary obligor and not as surety merely, the due and punctual pay-

¹ Came into force on 6 July 1961, upon notification by the Bank to the Government of Thailand.

² See p. 128 of this volume.

ment 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.

^{re} 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.

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 :

Minister of Finance
Ministry of Finance
Bangkok, Thailand

Alternative address for cablegrams and radiograms :

Minance
Bangkok

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. 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 Visutr ARTHAYUKTI
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 FEBRUARY 1961

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

[*Not published herein. See United Nations, Treaty Series, Vol. 400, p. 212*]

LOAN AGREEMENT

(*THIRD RAILWAY PROJECT*)

AGREEMENT dated April 28, 1961, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and the STATE RAILWAY OF THAILAND (hereinafter called the Borrower), an autonomous body established by the State Railway of Thailand Act B.E. 2494 as amended.

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 February 15, 1961¹ (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 twenty-two million dollars (\$22,000,000).

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 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 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 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 June 1 and December 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 1² 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 2³ to this Agreement. The specific goods to be financed out of the proceeds of the Loan

¹ See p. 128 of this volume.

² See p. 138 of this volume.

³ See p. 140 of this volume.

and the methods and procedures for procurement for such goods 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.

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 General Manager 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 out the Project with due diligence and efficiency and in conformity with sound engineering and financial practices.

(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 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 ; shall enable the Bank's representatives to inspect its properties and operations, 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 operations and financial condition of the Borrower.

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 Agreement¹ 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 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 insured thereunder shall be payable.

Section 5.07. The Borrower shall operate and maintain its properties and from time to time make all necessary renewals and repairs thereof, all in accordance with sound engineering standards, and shall at all times carry on its operations and maintain its financial position in accordance with sound financial, business and railway practices.

Section 5.08. The Borrower shall give priority to the carrying out of the Project and shall, if necessary to ensure the prompt completion of the Project, defer the carrying out of other works.

¹ See p. 122 of this volume.

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, 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. The Closing Date shall be November 30, 1965.

Section 7.02. A date 60 days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

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

For the Borrower :

The State Railway of Thailand
Bangkok, Thailand

Alternative address for cablegrams and radiograms :

Staterails
Bangkok

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 W. A. B. ILIFF

Vice President

The State Railway of Thailand :

By Y. NA THALANG

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>
December 1, 1964	\$390,000	June 1, 1973	\$632,000
June 1, 1965	401,000	December 1, 1973	650,000
December 1, 1965	413,000	June 1, 1974	668,000
June 1, 1966	425,000	December 1, 1974	688,000
December 1, 1966	437,000	June 1, 1975	707,000
June 1, 1967	449,000	December 1, 1975	728,000
December 1, 1967	462,000	June 1, 1976	749,000
June 1, 1968	476,000	December 1 1976	770,000
December 1, 1968	489,000	June 1 1977	792,000
June 1, 1969	503,000	December 1, 1977	815,000
December 1, 1969	518,000	June 1, 1978	839,000
June 1, 1970	533,000	December 1, 1978	863,000
December 1, 1970	548,000	June 1, 1979	888,000
June 1, 1971	564,000	December 1, 1979	913,000
December 1, 1971	580,000	June 1, 1980	939,000
June 1, 1972	597,000	December 1, 1980	966,000
December 1, 1972	614,000	June 1, 1981	994,000

* 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 3 years before maturity	½ %
More than 3 years but not more than 6 years before maturity	1 ½ %
More than 6 years but not more than 11 years before maturity	2 ½ %
More than 11 years but not more than 16 years before maturity	3 ½ %
More than 16 years but not more than 18 years before maturity	4 ¾ %
More than 18 years before maturity	5 ¾ %

SCHEDULE 2

DESCRIPTION OF THE PROJECT

The Project is the Investment Program of the State Railway of Thailand for the period 1961 to 1966 and is designed to (i) continue the rehabilitation and modernization of its physical properties, (ii) increase capacity to meet expected traffic demands and (iii) improve operating efficiency and decrease operating costs.

The Project includes procurement of materials and equipment and the execution of works. The principal features of the Project are :

- (a) the acquisition of about 65 diesel locomotives and about 1,650 freight cars together with spare parts and workshop equipment ;
- (b) the replacement of about 600 kilometers of track with rails weighing not less than 70 pounds per yard and other track materials, the remodeling of the Bangsue marshaling yard and other yards and the construction or extension of sidings at about 150 stations ;
- (c) the replacement of about 350 bridges with permanent steel or concrete bridges to permit 15-ton axle load ;
- (d) the installation of signaling and telecommunications equipment at about 100 stations and yards ; and
- (e) the erection of a second sleeper impregnation plant, office buildings, staff housing and a training center.