

No. 6978

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
and
EL SALVADOR**

Guarantee Agreement—*Fourth Power Project* (with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and Comisión Ejecutiva Hidroeléctrica del Río Lempa). Signed at Washington, on 19 June 1963

Official text: English.

Registered by the International Bank for Reconstruction and Development on 15 November 1963.

**BANQUE INTERNATIONALE POUR
LA RECONSTRUCTION ET LE DÉVELOPPEMENT
et
EL SALVADOR**

Contrat de garantie — *Quatrième projet relatif à l'énergie électrique* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et la Comisión Ejecutiva Hidroeléctrica del Río Lempa). Signé à Washington, le 19 juin 1963

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 15 novembre 1963.

No. 6978. GUARANTEE AGREEMENT¹ (*FOURTH POWER PROJECT*) BETWEEN THE REPUBLIC OF EL SALVADOR AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 19 JUNE 1963

AGREEMENT, dated June 19, 1963, between REPUBLIC OF EL SALVADOR (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 Comisión Ejecutiva Hidroeléctrica del Río Lempa (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 six million dollars (\$6,000,000), 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, 1961,³ with the same force and effect as if they were fully set forth herein (said Loan Regulations No. 4 being hereinafter called the Loan Regulations).

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

¹ Came into force on 16 October 1963, upon notification by the Bank to the Government of El Salvador.

² See p. 68 of this volume.

³ See p. 68 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 hereafter created 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 assets of the Banco Central de Reserva de El Salvador.

Section 3.02. (a) The Guarantor and the Bank shall co-operate 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 infor-

mation 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, in accordance with the principles presently set forth in the law creating the Borrower, covenants that it will permit the Borrower to earn revenues sufficient : (a) to cover operating expenses, including taxes, if any, adequate maintenance, depreciation and interest ; (b) to meet repayments on long-term indebtedness but only to the extent that such repayments shall exceed provision for depreciation ; and (c) to create a surplus for financing a reasonable portion of planned expansion.

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 *Ministro de Hacienda* 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 :

Ministro de Hacienda
San Salvador, El Salvador

Alternative address for cablegrams and radiograms :

Ministro Hacienda
San Salvador

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 *Ministro de Hacienda* 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.

Republic of El Salvador :

By A. INTERIANO
Authorized Representative

International Bank for Reconstruction and Development :

By J. Burke KNAPP
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

(FOURTH POWER PROJECT)

AGREEMENT, dated June 19, 1963, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and COMISIÓN EJECUTIVA HIDROELÉCTRICA DEL RÍO LEMPA (hereinafter called the Borrower).

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, 1961,¹ with the same force and effect as if they were fully set forth herein (said Loan Regulations No. 4 being hereinafter called the Loan Regulations).

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 six million dollars (\$6,000,000).

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-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 one-half per cent ($5\frac{1}{2}$ %) 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

¹ See above.

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 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 1¹ 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 2² 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 Bank and the Borrower, subject to modification by further agreement between them.

Section 3.02. Except as the Bank and the Borrower shall otherwise agree, 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 *Presidente* 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, financial and public utility practices.

(b) Except as the Bank and the Borrower shall otherwise agree, the Borrower shall employ for the carrying out of the Project suitably qualified and competent engineering

¹ See p. 80 of this volume.

² See p. 82 of this volume.

consultants and contractors. The selection of the engineering consultants and the nature and scope of their responsibilities shall be the subject of agreement between the Bank and the Borrower.

(c) 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 request.

(d) 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 submit annually to the Bank an audit report of, and financial statements certified by, independent public accountants satisfactory to the Bank ; 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 operations and financial condition of the Borrower.

Section 5.02. (a) The Bank and the Borrower shall co-operate 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 ; (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.

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. (a) Except as shall be otherwise agreed between the Bank and the Borrower, the Borrower shall insure or cause to be insured with responsible insurers all goods financed with the proceeds of the Loan. Such insurance shall cover such marine, transit and other hazards incident to purchase and importation of the goods into the territories of the Guarantor and to delivery thereof to the site of the Project, and shall be for such amounts as shall be consistent with sound commercial practice. Such insurance shall be payable in dollars or in the currency in which the cost of the goods insured thereunder shall be payable.

(b) In addition, the Borrower shall insure against such risks and in such amounts as shall be consistent with sound public utility and business practices.

Section 5.07. (a) The Borrower shall at all times maintain its existence and right to carry on operations and shall, except as the Bank shall otherwise agree, take all steps necessary to maintain and renew all rights, powers, privileges and franchises which are necessary or useful in the conduct of its business.

(b) The Borrower shall operate and maintain its plants, equipment and property, and from time to time make all necessary renewals and repairs thereof, all in accordance with sound engineering standards, and shall at all times operate its plants and equipment and maintain its financial position in accordance with sound public utility and business practices.

(c) The Borrower shall not, without the consent of the Bank, sell or otherwise dispose of all or substantially all of its property and assets or all or substantially all the property included in the Project or any plant included therein, unless the Borrower shall first redeem and pay, or make adequate provision satisfactory to the Bank for redemption or payment of, all of the Loan which shall then be outstanding and unpaid.

Section 5.08. The Borrower, in accordance with the principles presently set forth in the law creating it, covenants that it will take all steps necessary to earn revenues sufficient : (a) to cover operating expenses, including taxes, if any, adequate maintenance,

¹ See p. 60 of this volume.

depreciation and interest ; (b) to meet repayments on long-term indebtedness but only to the extent that such repayments shall exceed provision for depreciation ; and (c) to create a surplus for financing a reasonable portion of planned expansion.

Section 5.09. Except as the Bank and the Borrower shall otherwise agree, the Borrower shall not incur debt unless the sum of (i) its net revenues for the fiscal year next preceding such incurrence or for the twelve-month period ended prior to such incurrence, whichever is the greater, and (ii) 75 % of the difference between the revenues referred to in (i) above, and the estimate of its net revenues for the twelve months next following a period of six months after the date of completion of works under construction at the time of incurrence of the proposed debt and the works to be financed by the proposed debt, shall be not less than 1.5 times the maximum debt service requirement for any succeeding fiscal year on all debt existing on the date the computation is made together with the debt proposed to be incurred. For the purposes of this Section :

(a) The term "debt" shall mean all indebtedness of the Borrower maturing by its terms more than one year after the date on which it is incurred ;

(b) Debt shall be deemed to have been incurred : (i) in the case of a loan from the Guarantor on the date on which the decree of the Legislative Assembly of the Guarantor granting such loan shall enter into force and effect as provided in such decree ; and (ii) in the case of any other indebtedness on the date of execution and delivery of the contract providing for such indebtedness ;

(c) The term "net revenues" shall mean gross revenues from all sources, adjusted to take account of rates in effect at the time of the calculation even though they were not in effect during such fiscal year or twelve-month period, less all operating and administrative expenses, including provision for taxes, if any, but before provision covering depreciation, interest and other charges on debt ;

(d) The term "debt service requirement" shall mean the aggregate amount of amortization (including sinking fund payments, if any) interest and other charges on debt ; and

(e) The equivalent in currency of the Guarantor of amounts of debt payable in any other currency shall be determined on the basis of the rate of exchange which on the date of calculation is available to the Borrower for the purchase of such other currency for debt service.

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 or in Section 6.02 of the Loan Agreement 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. The following is specified as an event for the purposes of Section 5.02 of the Loan Regulations :

There shall have occurred any event specified in Section 1 (c) of Article VII of the loan agreement between the Bank and the Borrower dated December 14, 1949¹ or in Section 5.02 (c) of the Loan Regulations No. 4 of the Bank, dated June 15, 1956,² as incorporated in the loan agreements between the Bank and the Borrower dated February 20, 1959³ and July 29, 1960,⁴ respectively.

Article VII

MISCELLANEOUS

Section 7.01. The Closing Date shall be June 30, 1966.

Section 7.02. A date ninety 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 :

Comisión Ejecutiva Hidroeléctrica del Río Lempa
Edificio Duenas
San Salvador, El Salvador

Alternative address for cablegrams and radiograms :

CEL
San Salvador

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.

¹ United Nations, *Treaty Series*, Vol. 155, p. 43.

² United Nations, *Treaty Series*, Vol. 260, p. 376.

³ United Nations, *Treaty Series*, Vol. 362, p. 75.

⁴ United Nations, *Treaty Series*, Vol. 390, p. 101.

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 J. Burke KNAPP
Vice President

Comisión Ejecutiva Hidroeléctrica del Río Lempa :

By Enrique R. LIMA
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>
October 15, 1966	\$105,000	October 15, 1975	\$170,000
April 15, 1967	105,000	April 15, 1976	175,000
October 15, 1967	110,000	October 15, 1976	180,000
April 15, 1968	115,000	April 15, 1977	185,000
October 15, 1968	115,000	October 15, 1977	190,000
April 15, 1969	120,000	April 15, 1978	195,000
October 15, 1969	125,000	October 15, 1978	200,000
April 15, 1970	125,000	April 15, 1979	205,000
October 15, 1970	130,000	October 15, 1979	210,000
April 15, 1971	135,000	April 15, 1980	215,000
October 15, 1971	135,000	October 15, 1980	225,000
April 15, 1972	140,000	April 15, 1981	230,000
October 15, 1972	145,000	October 15, 1981	235,000
April 15, 1973	150,000	April 15, 1982	240,000
October 15, 1973	150,000	October 15, 1982	250,000
April 15, 1974	155,000	April 15, 1983	255,000
October 15, 1974	160,000	October 15, 1983	255,000
April 15, 1975	165,000		

* 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	1 1/2%
More than six years but not more than eleven years before maturity	2 1/2%
More than eleven years but not more than sixteen years before maturity	3 1/2%
More than sixteen years but not more than eighteen years before maturity	4 1/2%
More than eighteen years before maturity	5 1/2%

SCHEDULE 2

DESCRIPTION OF PROJECT

The Project consists of :

Part 1—Fifth Generating Unit at the Guayabo Hydroelectric Plant

Construction of a turbo-generating unit of approximately 18,000 kilowatt, with accessories, at the Guayabo hydroelectric plant.

Part 2—Acajutla Thermal Plant

Construction of a steam-electric generating plant at Acajutla of approximately 25,000 kilowatt, including a 30 MVA, 13.8/115 kv step-up transformer, a 20 MVA, 115/34.5 kv step-down transformer and auxiliary equipment.

Part 3—Transmission System (115 kv)

Construction of (i) a 63 kilometer 115 kv transmission system from Opico to Acajutla on steel towers ; (ii) a substation at Opico ; (iii) a 28 MVA autotransformer and structures at San Rafael Cedros substation ; (iv) a step voltage regulator and structures in the 46 kv line supplying the Usulután area.