

No. 7810

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

Guarantee Agreement—*Third Yanhee Project* (with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and the Yanhee Electricity Authority). Signed at Washington, on 22 March 1965

Official text: English.

Registered by the International Bank for Reconstruction and Development on 7 June 1965.

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

Contrat de garantie — *Troisième projet de Yanhee* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et la Yanhee Electricity Authority). Signé à Washington, le 22 mars 1965

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 7 juin 1965.

No. 7810. GUARANTEE AGREEMENT¹ (*THIRD YANHEE PROJECT*) BETWEEN THE KINGDOM OF THAILAND AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 22 MARCH 1965

AGREEMENT, dated March 22, 1965 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 Yanhee Electricity Authority (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, 1961³ (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 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

¹ Came into force on 27 April 1965, upon notification by the Bank to the Government of Thailand.

² See p. 72 of this volume.

³ See p. 70 of this volume.

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 or any other institution performing the functions of a central bank.

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 shall be reasonably requested 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 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 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 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 cables and radiograms :

Minance
Bangkok

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 :

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 Sukich NIMMANHEMINDA
Authorized Representative

International Bank for Reconstruction and Development :

By George D. WOODS
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 YANHEE PROJECT)

AGREEMENT, dated March 22, 1965, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and YANHEE ELECTRICITY AUTHORITY (hereinafter called the Borrower), an entity established under the Yanhee Electricity Authority Act, B.E. 2500, of the Kingdom of Thailand.

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 (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 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-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 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 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 semiannually 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 to this Agreement.

Article III

USE OF PROCEEDS OF 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 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. 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, financial and public utility practices.

(b) Except as the Bank and the Borrower shall otherwise agree, the Borrower shall employ suitably qualified and competent engineering consultants and contractors for the carrying out of the Project. 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) The Borrower shall furnish 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 : (i) 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; (ii) enable the Bank's representatives to inspect its properties and operations, the Project, the goods 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 administration, 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, the Bank and the Borrower shall from time to time, at the request of either party, exchange views through their representatives with regard to the performance by the Borrower of its obligations under the Loan Agreement, the administration, operations and financial condition of the Borrower and other matters relating to the purposes of the Loan.

(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.

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, 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 the Loan 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 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, 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 the Loan 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 transportation to the site

of the Project. 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 and public utility practices.

Section 5.08. The Borrower shall appoint independent auditors, satisfactory to the Bank, to audit the accounts of the Borrower as of the end of each fiscal year.

Section 5.09. The Borrower shall establish and maintain prices for the sale of electricity at such levels as will provide revenues sufficient : (a) to cover operating expenses, including proper provision for maintenance and depreciation and interest; (b) to meet repayment of indebtedness to the extent that such repayments exceed provision for depreciation and to meet increases in the cost of replacement of assets; and (c) to produce such surplus as shall be reasonable and proper in a well-ordered and self-sustaining public utility enterprise, sufficient (*inter alia*) to finance a substantial proportion of any development that may be undertaken within the scope of its responsibilities to satisfy future power demand in the areas supplied by it.

Section 5.10. The Borrower shall not incur any debt in respect of any project other than (i) the Project and (ii) the project described in Schedule 2 to the Loan Agreement (*Second Yanhee Project*) between the Bank and the Borrower dated March 7, 1963,¹ without the prior agreement of the Bank.

Article VI

REMEDIES OF 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 or in Section 6.02 of this Agreement 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.

Section 6.02. The following are specified as additional events for the purposes of Section 5.02 of the Loan Regulations :

¹ United Nations, *Treaty Series*, Vol. 467, p. 92.

- (a) A default shall have occurred in the performance of any covenant or agreement on the part of the Borrower (i) in the Loan Agreement (*Yanhee Project*) between the Bank and the Borrower dated September 12, 1957 or (ii) in the Loan Agreement (*Second Yanhee Project*) between the Bank and the Borrower dated March 7, 1963,¹ other than those covenants or agreements referred to in Section 5.02 (b) of the Loan Regulations.
- (b) The Yanhee Electricity Act, B.E. 2500, of the Guarantor, as amended prior to the date of the Loan Agreement, shall have been suspended, terminated or repealed, or materially amended, without the prior agreement of the Bank.

Article VII

EFFECTIVE DATE; TERMINATION

Section 7.01. The following is specified as an additional matter, within the meaning of Section 9.02 (c) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank :

That the Borrower has full power and authority to construct and operate the Project and that, except as stated in such opinion, all acts, consents, sanctions and approvals necessary therefor have been fully and validly performed or given.

Section 7.02. A date 60 days after the date of the Loan 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, 1968 or such other date as shall be agreed by the Bank and the Borrower.

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

For the Borrower :

Yanhee Electricity Authority
Samsen Road
Bangkok, Thailand

Alternative address for cables and radiograms :

YEA
Bangkok

¹ United Nations, *Treaty Series*, Vol. 299, p. 358.

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 :

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 George D. WOODS
President

Yanhee Electricity Authority :

By Sukich NIMMANHEMINDA
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>
February 15, 1969	115,000	August 15, 1977	180,000
August 15, 1969	115,000	February 15, 1978	185,000
February 15, 1970	120,000	August 15, 1978	190,000
August 15, 1970	125,000	February 15, 1979	195,000
February 15, 1971	125,000	August 15, 1979	200,000
August 15, 1971	130,000	February 15, 1980	205,000
February 15, 1972	135,000	August 15, 1980	210,000
August 15, 1972	140,000	February 15, 1981	220,000
February 15, 1973	145,000	August 15, 1981	230,000
August 15, 1973	145,000	February 15, 1982	230,000
February 15, 1974	150,000	August 15, 1982	240,000
August 15, 1974	155,000	February 15, 1983	245,000
February 15, 1975	160,000	August 15, 1983	250,000
August 15, 1975	160,000	February 15, 1984	255,000
February 15, 1976	165,000	August 15, 1984	265,000
August 15, 1976	170,000	February 15, 1985	270,000
February 15, 1977	175,000		

* 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	½ %
More than three years but not more than six years before maturity	1 ½ %
More than six years but not more than eleven years before maturity	2 ½ %
More than eleven years but not more than sixteen years before maturity	3 ½ %
More than sixteen years but not more than eighteen years before maturity	4 ½ %
More than eighteen years before maturity	5 ½ %

SCHEDULE 2

DESCRIPTION OF PROJECT

The Project consists of the Borrower's planned construction program during the years 1965-1968 including :

- (a) The installation of units 3 and 4 of 70 MW each with necessary ancillaries at Bhumibol Dam.
- (b) The installation of penstocks, gates and trashracks at Bhumibol Dam for future units 5 and 6.
- (c) The extension of 230 kv substations in Bangkok including the installation of power transformers and a synchronous condenser.
- (d) The extension of new transmission lines and substations at 115 kv and 69 kv to connect to the system the town of Nakhon Nayok, Prachinburi and Samut Sakorn.
- (e) Consulting engineering services relating to the Borrower's operations.

* * *

The Project works are expected to be completed and in operation by the end of 1968.

LETTER RELATING TO THE LOAN AGREEMENT

YANHEE ELECTRICITY AUTHORITY

March 22, 1965

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

Rates : Loan No. 406 TH (Third Yanhee Project)

Dear Sirs :

Please refer to Section 5.09 of the Loan Agreement (*Third Yanhee Project*) of even date between the International Bank for Reconstruction and Development and Yanhee Electricity Authority.

This will confirm that, until two years after the Closing Date (referred to in Section 8.01 of the Loan Agreement), YEA, before making any change in its rates for the sale of electric energy, will consult the Bank in good time in order to reach a mutually satisfactory understanding regarding such changes.

Please confirm your agreement with the foregoing by signing the form of confirmation on the enclosed copy of this letter and returning it to us.

Very truly yours,

Yanhee Electricity Authority :

Sukich NIMMANHEMINDA
Authorized Representative

Confirmed :

International Bank for
Reconstruction and Development :

By R. J. GOODMAN
