

No. 7991

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

Guarantee Agreement—*Carregado Power Project* (with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and the Empresa Termoelectrica Portuguesa S.A.R.L.). Signed at Washington, on 29 April 1965

Official text: English.

Registered by the International Bank for Reconstruction and Development on 30 November 1965.

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

Contrat de garantie — *Projet relatif à la centrale électrique de Carregado* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et l'Empresa Termoelectrica Portuguesa S.A.R.L.). Signé à Washington, le 29 avril 1965

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 30 novembre 1965.

No. 7991. GUARANTEE AGREEMENT¹ (*CARREGADO POWER PROJECT*) BETWEEN THE REPUBLIC OF PORTUGAL AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 29 APRIL 1965

AGREEMENT, dated April 29, 1965, between REPUBLIC OF PORTUGAL (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by an agreement of even date herewith² between the Bank and Empresa Termoelectrica Portuguesa S.A.R.L. (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement, the Bank has agreed to make to the Borrower a loan in various currencies equivalent to fifteen million dollars (\$15,000,000), 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 subject, however, to the modification thereof set forth in Section 1.01 of the Loan Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

¹ Came into force on 28 June 1965, upon notification by the Bank to the Government of Portugal.

² See p. 78 of this volume.

³ See p. 76 of this volume.

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 interest and other charges on, the Loan, the principal of and interest on the Bonds, and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, all as set forth in the Loan Agreement and in the Bonds.

Section 2.02. 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, the Guarantor undertakes to make arrangements or cause arrangements to be made to enable the Borrower promptly 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; 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.

The term "assets of the Guarantor" as used in this Section includes assets of the Guarantor, of any of its political subdivisions, of any agency of the Guarantor or of any such political subdivision, and of Banco de Portugal, Banco de Angola and Banco Nacional Ultramarino or any other institution performing the functions of a central bank for, or in the territories of, the Guarantor.

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 Guarantor shall from time to time take or cause to be taken all governmental action necessary to permit the Borrower to obtain revenues from the supply of electricity sufficient : (i) to cover operating and administrative expenses, including taxes, adequate maintenance and interest payments ; (ii) to provide for adequate depreciation ; (iii) to meet periodical repayments on long-term indebtedness to the extent that such repayments exceed provision for depreciation ; and (iv) to leave a reasonable surplus, after dividends, to finance new investment.

Section 3.04. 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 3.05. 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 3.06. 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 :

Ministerio das Finanças
Lisboa
Portugal

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 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.

Republic of Portugal :
By VASCO VIEIRA GARIN
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
(CARREGADO POWER PROJECT)

AGREEMENT, dated April 29, 1965, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and EMPRESA TERMoeLECTRICA PORTUGUESA S.A.R.L. (hereinafter called the Borrower), a company organized and existing under the laws of the Republic of Portugal.

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, subject, however, to the following modification thereof (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), namely :

The second sentence of Section 4.01 is amended to read as follows :

“Except as shall be otherwise agreed between the Bank and the Borrower, no withdrawals shall be made on account of (a) expenditures prior to February 1, 1965 or (b) expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in (including services supplied from) such territories.”

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 fifteen million dollars (\$15,000,000).

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. As an exception to Section 3.02 of the Loan Regulations, withdrawals on account of expenditures in the currency of the Guarantor shall be made in dollars or in such currency or currencies as the Bank shall reasonably select.

Section 2.04. The Borrower shall pay to the Bank a commitment charge at the rate of three-eighths of one per cent ($3/8$ of 1%) per annum on the principal amount of the Loan not withdrawn from time to time from the Loan Account.

¹ See p. 76 of this volume.

Section 2.05. 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 2.06. 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 2.07. Interest and other charges shall be payable semi-annually on June 1 and December 1 in each year.

Section 2.08. 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 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 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 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 do Conselho de Administração* 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) In the carrying out of the Project, the Borrower shall employ qualified and experienced engineering consultants acceptable to the Bank, on terms and conditions satisfactory to the Bank.

(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.

Section 5.02. The Borrower shall at all times conduct its business and carry on its operations in accordance with sound business and public utility practices and to that end shall employ such management with such qualifications and experience as shall be required by the nature and size of its undertaking.

Section 5.03. (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 progress of the Project, the performance by the Borrower of its obligations under the Loan Agreement, the administration, operations and financial condition of the Borrower and any other matters relating to the purposes of the Loan.

(b) The Borrower shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the goods financed out of such proceeds, the Project, and the administration, operations and financial condition of the Borrower.

(c) 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 5.04. The Borrower shall at all times maintain its existence and right to carry on its operations and shall take all practical steps that are required to maintain and renew all rights, powers, privileges and franchises which are necessary or useful in the conduct of its business.

Section 5.05. The Borrower shall at all times operate and maintain its plants, equipment and property, and from time to time make all necessary repairs or renewals thereof, in accordance with sound engineering and public utility practices.

Section 5.06. (a) The Borrower shall insure or cause to be insured with responsible insurers all goods financed out of 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 territory of the Guarantor and delivery thereof to the site of the Project, and shall be for such amounts, as shall be consistent with sound commercial practices. Except as the Bank shall otherwise agree, such insurance shall be payable in the currency in which the cost of the goods insured thereunder shall be payable, or in any other currency which the Borrower can convert into such currency.

(b) In addition the Borrower shall take out and maintain, with responsible insurers, or make other adequate provisions for, insurance against such risks and in such amounts as shall be consistent with sound public utility practices.

Section 5.07. The Borrower shall not, without the prior consent of the Bank, sell or otherwise dispose of any of its assets except in the ordinary course of its business.

Section 5.08. Except as the Bank and Borrower shall otherwise agree, the Borrower shall not incur any long-term indebtedness if, after such incurrence, the aggregate long-term indebtedness of the Borrower would exceed two times the paid-in capital and surplus of the Borrower existing on the date of such incurrence.

For the purposes of this Section :

(a) The term "long-term indebtedness" shall mean any debt maturing more than one year after the date on which it is originally incurred ;

(b) debt shall be deemed to be incurred on the date of execution and delivery of the contract or loan agreement providing for such debt ;

(c) the term "surplus" shall mean surplus (including the statutory reserve fund) as determined in accordance with sound accounting practices ;

(d) whenever it shall be necessary to value in currency of the Guarantor debt payable in another currency, such valuation shall be made on the basis of the rate of exchange at which such other currency is obtainable by the Borrower, at the time such valuation is made, for the purposes of servicing such debt or, if such currency is not so obtainable, at the rate of exchange that will be reasonably determined by the Bank.

Section 5.09. The Borrower undertakes that, except as the Bank shall otherwise agree : (a) if the Borrower shall create any lien on any of its assets as security for any debt, such lien will 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 ; and (b) if any lien shall be created on any assets of the Borrower, other than under (a) above, as security for any debt, the Borrower shall grant to the Bank an equivalent lien satisfactory to the Bank ; 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 ; and (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after the date on which it is originally incurred.

Section 5.10. The Borrower shall from time to time take all steps required on its part to obtain revenues from the supply of electricity sufficient : (i) to cover operating and administrative expenses including taxes, adequate maintenance and interest payments ; (ii) to provide for adequate depreciation ; (iii) to meet periodical repayments on long-term indebtedness to the extent that such repayments exceed provision for depre-

ciation ; and (iv) to leave a reasonable surplus, after dividends, to finance new investment.

Section 5.11. The Borrower shall have its accounts regularly audited and its annual financial statements certified by independent auditors acceptable to the Bank.

Section 5.12. The Borrower shall maintain records adequate to identify the goods financed with 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 the certified financial statements of the Borrower ; and shall enable the Bank's representatives to inspect the Project, the goods financed out of the proceeds of the Loan, all other plants, equipment and property of the Borrower and any relevant records and documents.

Section 5.13. 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 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 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 5.14. 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 this Agreement, the Guarantee Agreement or the Bonds.

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 Section 6.02 hereof 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 additional event is specified for the purposes of Section 5.02 of the Loan Regulations, namely a default shall have occurred in the performance of any covenant or agreement on the part of the Borrower under the loan agreement

(*Thermoelectric Power Project*) between the Bank and the Borrower dated November 6, 1963, or on the part of the Guarantor under the guarantee agreement (*Thermoelectric Power Project*) between the Guarantor and the Bank of even date therewith, other than a default in the payment of principal or interest or any other payment required under such loan agreement or under such guarantee agreement or any bond delivered pursuant to such agreements.

Section 6.03. It is agreed that any default in the performance of any covenant or agreement on the part of the Borrower under this Loan Agreement or on the part of the Guarantor under the Guarantee Agreement, other than a default in the payment of principal or interest or any other payment required under the Loan Agreement or under the Guarantee Agreement, shall constitute, for the purposes of the loan agreement (*Thermoelectric Power Project*) between the Bank and the Borrower dated November 6, 1963, an additional event specified in paragraph (c) of Section 5.02 of the Loan Regulations No. 4 of the Bank as made applicable to said loan agreement.

Article VII

MISCELLANEOUS

Section 7.01. A date sixty days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

Section 7.02. The Closing Date shall be November 30, 1968 or such other date as may from time to time be agreed between the Bank and the Borrower.

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

For the Borrower :

Empresa Termoelectrica Portuguesa S.A.R.L.
Rua do Bolhao 72-3º
Porto
Portugal

Alternative address for cablegrams and radiograms :

Termel
Porto

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 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 J. Burke KNAPP

Vice President

Empresa Termoelectrica Portuguesa S.A.R.L. :

By FRANCISCO A. CORREA FIGUEIRA

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, 1968	\$270,000	June 1, 1977	\$430,000
June 1, 1969	280,000	December 1, 1977	445,000
December 1, 1969	285,000	June 1, 1978	455,000
June 1, 1970	295,000	December 1, 1978	470,000
December 1, 1970	305,000	June 1, 1979	480,000
June 1, 1971	310,000	December 1, 1979	495,000
December 1, 1971	320,000	June 1, 1980	510,000
June 1, 1972	330,000	December 1, 1980	520,000
December 1, 1972	340,000	June 1, 1981	535,000
June 1, 1973	350,000	December 1, 1981	550,000
December 1, 1973	355,000	June 1, 1982	565,000
June 1, 1974	365,000	December 1, 1982	580,000
December 1, 1974	375,000	June 1, 1983	600,000
June 1, 1975	385,000	December 1, 1983	615,000
December 1, 1975	400,000	June 1, 1984	630,000
June 1, 1976	410,000	December 1, 1984	650,000
December 1, 1976	420,000	June 1, 1985	675,000

* 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 the construction of a thermal power station at Carregado designed ultimately to contain four generating units and the installation therein of the first 125 MW unit and all ancillary installations necessary for its operation, including a substation. The installation will be of the unit construction semi-outdoor type with steam conditions of about 1800 psi and about 1000° F with reheat, and is expected to be in operation by the middle of 1967.