

No. 9408

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
and
HONDURAS

Loan Agreement—*Rio Lindo Hydroelectric Project* (with
annexed Loan Regulations No. 3, as amended).
Signed at Washington on 12 June 1968

Authentic text : English.

*Registered by the International Bank for Reconstruction and Development
on 14 February 1969.*

BANQUE INTERNATIONALE POUR
LA RECONSTRUCTION ET LE DÉVELOPPEMENT
et
HONDURAS

Contrat d'emprunt — *Projet hydro-électrique du Lindo*
(avec, en annexe, le Règlement n° 3 sur les emprunts,
tel qu'il a été modifié). Signé à Washington le
12 juin 1968

Texte authentique : anglais.

*Enregistré par la Banque internationale pour la reconstruction et le développe-
ment le 14 février 1969.*

LOAN AGREEMENT ¹

AGREEMENT, dated June 12, 1968, between REPUBLIC OF HONDURAS (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS

(A) the Borrower has requested the Bank to grant a loan to the Borrower for relending to the Empresa Nacional de Energía Eléctrica (herein after called ENEE) for the purpose of financing a hydroelectric power project ;

(B) by agreement ² of even date herewith the International Development Association (hereinafter called the Association) has agreed to make a credit to the Borrower in an amount in various currencies equivalent to four million dollars (\$4,000,000) on the terms and conditions set forth therein, the proceeds of which will also be relent by the Borrower to ENEE for the same purpose ;

(C) by a Project Agreement ³ of even date herewith between the Bank, the Association and ENEE, ENEE has undertaken certain obligations in respect of the carrying out of the Project and related matters ; and

(D) the Bank has, on the basis of the foregoing, agreed to grant a loan to the Borrower upon the terms and conditions hereinafter set forth ;

NOW THEREFORE the parties hereto hereby agree as follows :

Article I

LOAN REGULATIONS ; SPECIAL DEFINITIONS

Section 1.01. The parties to this Agreement accept all the provisions of Loan Regulations No. 3 of the Bank, dated February 15, 1961 as amended February 9, 1967, ⁴ with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications thereof (said

¹ Came into force on 13 September 1968, upon notification by the Bank to the Government of Honduras.

² See p. 99 of this volume.

³ See p. 379 of this volume.

⁴ See p. 96 of this volume.

Loan Regulations No. 3 as so modified being hereinafter called the Loan Regulations) :

The words “and the Project Agreement” are inserted immediately after the words “the Loan Agreement” wherever the latter occur in Sections 5.06 and 7.02 of the Loan Regulations.

Section 1.02. Except where the context otherwise requires, the following terms have the following meanings wherever used in the Loan Agreement :

(a) “ENEE” means Empresa Nacional de Energía Eléctrica, an instrumentality of the Borrower established and organized under Decree No. 48 of the Borrower dated February 20, 1957, as the same may be amended from time to time, and shall include any successor thereto.

(b) “Development Credit Agreement” means the agreement referred to in clause (B) of the preamble above, as the same may be amended or supplemented from time to time.

(c) “Project Agreement” means the agreement referred to in clause (C) of the preamble above, as the same may be amended or supplemented from time to time.

(d) “Subsidiary Loan Agreement” means the agreement referred to in Section 3.01 of this Agreement, to be entered into between the Borrower and ENEE.

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 seven million five hundred thousand dollars (\$ 7,500,000).

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 by ENEE acting on behalf of the Borrower pursuant to Section 8.01 hereof, as provided in, and subject to the rights of cancellation and suspension set forth in, this Agreement and 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 ($3/4$ of 1 %) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.04. The Borrower shall pay interest at the rate of six and one-quarter per cent (6 1/4 %) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

Section 2.05. Except as the Borrower and the Bank shall otherwise agree, the charge payable for special commitments entered into by the Bank at the request of the Borrower pursuant to Section 4.02 of the Loan Regulations shall be at the rate of one-half of one per cent (1/2 of 1 %) per annum on the principal amount of any such special commitment 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 ; provided, however, that in the event ENEE shall repay to the Borrower in advance of maturity under the Subsidiary Loan Agreement all or any part of the principal of the loan made to ENEE thereunder, the Borrower shall, to the extent that such prepayment represents amounts withdrawn from the Loan Account under this Agreement, prepay the Bank a corresponding amount.

Article III

USE OF PROCEEDS OF THE LOAN

Section 3.01. The Borrower shall relend the proceeds of the Loan and of the Credit accorded under the Development Credit Agreement to ENEE pursuant to a loan agreement (the Subsidiary Loan Agreement) satisfactory to the Bank, and shall cause such proceeds to be applied exclusively to financing the cost of goods required to carry out the Project, described in Schedule 2 to this Agreement. The specific allocation of the proceeds of the Loan and the methods and procedures for procurement of the goods to be financed out of such proceeds shall be determined by agreement between the Borrower and the Bank, subject to modification by further agreement between them.

Section 3.02. Except as the Borrower and the Bank shall otherwise agree, the Borrower shall cause all goods financed out of the proceeds of the Loan to be used by ENEE exclusively in the carrying out of the Project.

Article IV

BONDS

Section 4.01. If and when the Bank shall from time to time request, the Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in Article VI of the Loan Regulations.

Section 4.02. The *Secretario de Estado en el Despacho de Economía y Hacienda* is designated as authorized representative of the Borrower for the purposes of Section 6.12 of the Loan Regulations. The *Secretario de Estado en el Despacho de Economía y Hacienda* of the Borrower may designate additional or other authorized representatives by appointment in writing notified to the Bank.

Article V

PARTICULAR COVENANTS

Section 5.01. (a) The Borrower shall cause ENEE punctually to perform all the covenants, agreements and obligations of ENEE set forth in the Project Agreement and the Subsidiary Loan Agreement, shall take or cause to be taken all action necessary or appropriate to enable ENEE to perform such covenants, agreements and obligations, and shall not take or permit any of its political subdivisions or agencies to take any action which would prevent or interfere with the performance by ENEE of such covenants, agreements and obligations.

(b) Without limitation or restriction upon any of the other covenants on its part in this Agreement contained the Borrower shall, whenever there is reason to believe that the funds, facilities, services and other resources available to ENEE are inadequate for the purpose, make arrangements, satisfactory to the Bank, promptly to provide ENEE or cause ENEE to be provided with the funds, facilities, services and other resources required therefor.

Section 5.02. Except as the Bank shall otherwise agree, the Borrower shall not assign, nor amend, abrogate or waive any provision of, the Subsidiary Loan Agreement.

Section 5.03. The Borrower shall permit ENEE to effect from time to time such adjustments in its rates for the sale of electricity as shall be necessary to provide revenue sufficient to: (i) cover operating expenses, including taxes and levies, if any, adequate maintenance and depreciation, and (ii) produce a reasonable return on its total net fixed assets in operation. The

provisions of this Section supersede all prior agreements between the Borrower and the Bank relating to such adjustments by ENEE.

Section 5.04. (a) The Borrower 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 Borrower, such information shall include information with respect to financial and economic conditions in the territories of the Borrower and the international balance of payments position of the Borrower.

(b) The Borrower 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 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.

(c) The Borrower shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Borrower for purposes related to the Loan.

Section 5.05. It is the mutual intention of the Borrower 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 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 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 Borrower " as used in this Section includes assets of the Borrower or of any of its political subdivisions or of any agency of the Borrower or of any such political subdivision, including the Banco Central de Honduras or any other institution performing the functions of a central bank for the Borrower.

Section 5.06. 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, and free from all restrictions, imposed under the laws of the Borrower

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 Borrower.

Section 5.07. This Agreement, the Project Agreement and the Bonds shall be free from any taxes that shall be imposed under the laws of the Borrower or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

Article VI

REMEDIES OF THE BANK

Section 6.01. (i) If any event specified in paragraph (a) or paragraph (b) of Section 5.02 of the Loan Regulations or in paragraph (a), paragraph (b), paragraph (c) or paragraph (d) of 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 or in paragraph (e) or paragraph (f) of Section 6.02 of this 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 are specified as additional events for the purposes of paragraph (i) of Section 5.02 of the Loan Regulations :

- (a) ENEE shall have been unable to pay its debts as they mature or any action or proceeding shall have been taken by ENEE, by the Borrower or by others whereby any of the assets of ENEE shall or may be distributed among its creditors ;
- (b) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of ENEE or for the suspension of its operations ;
- (c) The Decree No. 48 of the Borrower, dated February 20, 1957, shall have been cancelled, suspended, terminated, repealed, or shall have been amended so as to impair the ability of ENEE to carry out its obligations under the Project Agreement and the Subsidiary Loan Agreement ;

- (d) ENEE shall have failed to make any payment of principal, interest or any other payment required under any loan agreement between the Bank and ENEE or under any bonds or other obligations issued thereunder ;
- (e) ENEE shall have failed to perform any covenant or agreement of ENEE under the Project Agreement.
- (f) A default shall have occurred in the performance of any covenant or agreement on the part of the Borrower or ENEE under the Subsidiary Loan Agreement ;
- (g) An extraordinary situation shall have arisen which shall make it improbable that ENEE will be able to perform its obligations under the Project Agreement.

Article VII

EFFECTIVE DATE ; TERMINATION

Section 7.01. The following events are specified as additional conditions to the effectiveness of this Agreement within the meaning of Section 9.01 (b) of the Loan Regulations :

- (a) The conditions precedent to the effectiveness of the Development Credit Agreement shall have been fulfilled, subject only to the effectiveness of this Agreement ;
- (b) The execution and delivery of the Project Agreement on behalf of ENEE have been duly authorized or ratified by all necessary corporate and governmental action ;
- (c) The execution and delivery of the Subsidiary Loan Agreement on behalf of the Borrower and ENEE have been duly authorized or ratified by all necessary governmental and corporate action ; and
- (d) ENEE shall have certified in writing to the Bank that, as of a date to be agreed between the Bank and ENEE (which shall be prior to the Effective Date), there has been no material adverse change in the financial position of ENEE since the date of this Agreement.

Section 7.02. The following are specified as additional matters, 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 :

- (a) that the Project Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, ENEE and constitutes

a valid and binding obligation of ENEE in accordance with its terms ;

- (b) that the Subsidiary Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and ENEE and constitutes a valid and binding obligation of the Borrower and ENEE in accordance with its terms.

Section 7.03. If this Agreement shall not have come into force and effect by September 3, 1968, this Agreement and all obligations of the parties hereunder shall terminate, unless the Bank, after consideration of the reasons for the delay, establishes a later date for purposes of this Section. The Bank shall promptly notify the Borrower and ENEE of such later date.

Article VIII

ACTIONS BY ENEE

Section 8.01. The Borrower irrevocably designates ENEE its agent for the purpose of taking any action required or permitted under Section 2.02 and the second sentence of Section 3.01 of this Agreement and under Article IV of the Loan Regulations.

Article IX

MISCELLANEOUS

Section 9.01. The Closing Date shall be December 31, 1971, or such other date as may from time to time be agreed between the Borrower and the Bank.

Section 9.02. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower :

Secretaría de Economía y Hacienda
Tegucigalpa
Honduras

Cable address :

Mineconomía
Tegucigalpa

For the Bank :

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

Cable address :

Intbafrad
Washington, D.C.

Section 9.03. The *Secretario de Estado en el Despacho de Economía y Hacienda* of the Borrower 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 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 Honduras :

By Ricardo A. MIDENCE
Authorized Representative

International Bank for Reconstruction and Development

By J. BURKE KNAPP
Vice President

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, 1972 | 85,000 | February 15, 1983 | 165,000 |
| August 15, 1972 | 90,000 | August 15, 1983 | 175,000 |
| February 15, 1973 | 90,000 | February 15, 1984 | 180,000 |
| August 15, 1973 | 95,000 | August 15, 1984 | 185,000 |
| February 15, 1974 | 95,000 | February 15, 1985 | 190,000 |
| August 15, 1974 | 100,000 | August 15, 1985 | 195,000 |
| February 15, 1975 | 100,000 | February 15, 1986 | 200,000 |
| August 15, 1975 | 105,000 | August 15, 1986 | 210,000 |
| February 15, 1976 | 110,000 | February 15, 1987 | 215,000 |
| August 15, 1976 | 110,000 | August 15, 1987 | 220,000 |
| February 15, 1977 | 115,000 | February 15, 1988 | 230,000 |
| August 15, 1977 | 120,000 | August 15, 1988 | 235,000 |
| February 15, 1978 | 125,000 | February 15, 1989 | 240,000 |
| August 15, 1978 | 125,000 | August 15, 1989 | 250,000 |
| February 15, 1979 | 130,000 | February 15, 1990 | 260,000 |
| August 15, 1979 | 135,000 | August 15, 1990 | 265,000 |
| February 15, 1980 | 140,000 | February 15, 1991 | 275,000 |
| August 15, 1980 | 145,000 | August 15, 1991 | 280,000 |
| February 15, 1981 | 150,000 | February 15, 1992 | 290,000 |
| August 15, 1981 | 155,000 | August 15, 1992 | 300,000 |
| February 15, 1982 | 155,000 | February 15, 1993 | 305,000 |
| August 15, 1982 | 160,000 | | |

¹ 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 AND 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 % |
| More than six years but not more than eleven years before maturity | 2 % |
| More than eleven years but not more than sixteen years before maturity | 3 % |
| More than sixteen years but not more than twenty-one before maturity | 4 % |
| More than twenty-one years but not more than twenty-three years before maturity | 5 % |
| More than twenty-three years before maturity | 6 1/4 % |

SCHEDULE 2

DESCRIPTION OF PROJECT

The Project consists in :

Part A

The construction of the Rio Lindo Hydroelectric Scheme, comprising mainly (1) a power station (equipped with two generating units of about 20 MW rated capacity each, together with associated electrical and mechanical equipment) and (2) a water conduit system comprising a steel pipeline, tunnels, a regulating reservoir (formed by an earth dike), a penstock and an open tail race canal.

Part B

The expansion of ENEE's transmission system, including : (1) the construction of a double-circuit 138 kV transmission line, about 2 km long, to connect the Río Lindo Power Station to the interconnected system ; (2) the construction of a single-circuit 138 kV transmission line, about 53 km long, from the Río Lindo Power Station to San Pedro Sula and the expansion of the substation at San Pedro Sula ; (3) the improvement or reconstruction of the single-circuit 69 kV transmission line, about 12 km long, from Bufalo to La Lima, the construction of a similar line, about 20 km long, from La Lima to El Progreso, and the construction of associated substations.

Part C

Feasibility studies of future development of hydroelectric power in western Honduras.

* * *

The Project will be carried out by ENEE and is expected to be completed by the end of 1970.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 3, DATED 15 FEBRUARY 1961,
AS AMENDED 9 FEBRUARY 1967

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK
TO MEMBER GOVERNMENTS.

[Not published herein. See United Nations, Treaty Series, Vol. 615. p. 98.]