

No. 10863

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

Guarantee Agreement—*Chivor Hydroelectric Project* (with annexed General Conditions Applicable to Loan and Guarantee Agreements and Loan Agreement between the Bank and the Interconexión Eléctrica, S.A.). Signed at Bogotá on 4 June 1970

Authentic text: English.

Registered by the International Bank for Reconstruction and Development on 2 December 1970.

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

Contrat de garantie — *Projet hydroélectrique de Chivor* (avec, en annexe, les Conditions générales applicables aux contrats d'emprunt et de garantie et le Contrat d'emprunt entre la Banque et l'Interconexión Eléctrica, S.A.). Signé à Bogotá le 4 juin 1970

Texte authentique : anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 2 décembre 1970.

GUARANTEE AGREEMENT¹

AGREEMENT, dated June 4, 1970, between REPUBLIC OF COLOMBIA (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 Interconexión Eléctrica S.A. (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 fifty-two million three hundred thousand dollars (\$52,300,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor and certain shareholders of the Borrower agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided;

WHEREAS by an agreement of even date herewith between the Bank and said shareholders of the Borrower, which agreement is hereinafter called the Shareholders' Agreement,³ said shareholders have agreed to guarantee the obligations of the Borrower in respect of such loan and to extend to the Borrower additional financing as in such Shareholders' Agreement 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 the General Conditions Applicable to Loan and Guarantee Agreements of the Bank dated January 31, 1969,⁴ with the same force and effect as if they were fully set forth herein, subject, however, to the modifi-

¹ Came into force on 1 September 1970, upon notification by the Bank to the Government of Colombia.

² See p. 12 of this volume.

³ The said Agreement entered into force on 4 June 1970. As it does not constitute an international agreement or a part of the present Agreement, it is not reproduced herein. However, it was published by the Bank as document LN 681 CO, a certified true copy of which was transmitted to the Secretariat together with the documentation submitted for registration of the present Guarantee Agreement.

⁴ See p. 12 of this volume.

cations thereof set forth in Schedule 5 to the Loan Agreement (said General Conditions Applicable to Loan and Guarantee Agreements, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Guarantee Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in Section 1.02 of the Loan Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

- (a) the term “CVC” means Corporación Autónoma Regional del Cauca; and
- (b) the term “ICEL” means Instituto Colombiano de Energía Eléctrica.

Article II

Section 2.01. Without limitation or restriction upon any of its other obligations under this Guarantee Agreement, 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 and the Bonds, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds prior to their maturity and the punctual performance of all the obligations 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 Sections 2.01 and 3.05 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 the carrying out of the Project or that the funds available to CVC or to ICEL will be inadequate to permit the punctual performance of any of the obligations on the part of CVC or ICEL under the Shareholders' Agreement, to make arrangements, satisfactory to the Bank, promptly to provide or cause to be provided to the Borrower, CVC or ICEL such funds as are needed to meet such expenditures or to permit such performance.

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.

As used in this Section, (a) the term "assets of the Guarantor" includes assets of the Guarantor or of any of its political subdivisions or of any Agency or of Banco de la República or any other institution acting as the central bank of the Guarantor, and (b) the term "Agency" means any agency or instrumentality of the Guarantor or of any political subdivision of the Guarantor and shall include any institution or organization which is owned or controlled directly or indirectly by the Guarantor or by any political subdivision of the Guarantor or the operations of which are conducted primarily in the interest of or for account of the Guarantor or any political subdivision 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 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 Guarantor, 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 Guarantee Agreement, the Loan Agreement, the Shareholders' Agreement and the Bonds shall be free from any taxes that shall be imposed under the laws of the Guarantor on or in connection with the execution, issue, delivery or registration thereof.

Section 3.05. The Guarantor shall, promptly as required, take all reasonable steps necessary on its part (i) to enable the Borrower to obtain other loans or other financing on reasonable terms from sources outside Colombia and apply the proceeds of such loans or financing to meet as large a portion as possible of the foreign exchange expenditures on account of the equipment, and the installation thereof, included in the Project, and (ii) to enable the shareholders punctually to perform all their obligations under the *Estatutos* and under the Shareholders' Agreement.

Section 3.06. The Guarantor covenants that it will cause the Borrower's tariffs to be set and maintained at such levels as shall be required under Section 5.13 of the Loan Agreement.

Article IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the General Conditions, its guarantee on the Bonds to be executed and delivered by the Borrower. The Minister of Finance and Public Credit of the Guarantor and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Guarantor for the purposes of Section 8.10 of the General Conditions.

Article V

Section 5.01. The Minister of Finance and Public Credit of the Guarantor is designated as representative of the Guarantor for the purposes of Section 10.03 of the General Conditions.

Section 5.02. The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Guarantor:

Republic of Colombia
Ministerio de Hacienda y Crédito Público
Palacio de los Ministerios, Plaza San Augustin
Bogotá, Colombia

Alternative address for cables:

Minhacienda
Bogotá

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:

Intbafrad
Washington, D.C.

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 Bogotá, Distrito Especial, Colombia, as of the day and year first above written.

Republic of Colombia:

By ABDON ESPINOSA VALDERRAMA
Authorized Representative

International Bank for Reconstruction and Development:

By ROBERT S. McNAMARA
President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

GENERAL CONDITIONS, DATED 31 JANUARY 1969

GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS

[*Not published herein. See United Nations, Treaty Series, vol. 691, p. 300.*]

LOAN AGREEMENT

AGREEMENT, dated June 4, 1970, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and INTERCONEXIÓN ELÉCTRICA S.A. (hereinafter called the Borrower).

WHEREAS the Borrower has requested the Bank to assist in the financing of a project for the construction of electric power generating and related transmission facilities;

WHEREAS by an agreement of even date herewith between the Republic of Colombia (hereinafter called the Guarantor) and the Bank (such agreement being hereinafter called the Guarantee Agreement¹) the Guarantor has agreed *inter alia* to guarantee the obligations of the Borrower under this Loan Agreement;

WHEREAS by an agreement of even date herewith between the Bank and certain shareholders of the Borrower (such agreement being hereinafter called the Shareholders' Agreement) said shareholders have agreed *inter alia* to guarantee the obligations of the Borrower under this Loan Agreement and to extend to the Borrower additional financing for the Project;

WHEREAS the Bank has agreed, on the basis *inter alia* of the foregoing, to make a loan to the Borrower on the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

Article I

GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated January 31, 1969,² with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 5 to this Agreement (said General Conditions Applicable to Loan and Guarantee Agreements of the Bank, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings:

- (a) the term "*Estatutos*" means the statutes dated September 14, 1967, as amended on November 18, 1968, and as further amended from time to time after approval of the Bank, under which the Borrower was established and operates; and
- (b) the term "*First Loan Agreement*" means the loan agreement between the Bank and the Borrower, dated December 2, 1968,³ as amended from time to time.

Article II

THE LOAN

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in this Loan Agreement set forth or referred to, an amount in various

¹ See p. 4 of this volume.

² See p. 12 of this volume.

³ United Nations, *Treaty Series*, vol. 673, p. 211.

currencies equivalent to fifty-two million three hundred thousand dollars (\$52,300,000).

Section 2.02. (a) 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.

(b) 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, this Loan Agreement and in accordance with the allocation of the proceeds of the Loan set forth in Schedule 1 to this Agreement, as such allocation shall be modified from time to time pursuant to the provisions of such Schedule or by further agreement between the Bank and the Borrower.

Section 2.03. (a) The Borrower shall be entitled to withdraw from the Loan Account in respect of the reasonable cost of goods or services required for the Project and to be financed under this Loan Agreement:

- (i) such amounts as shall have been paid (or, if the Bank shall so agree, shall be required to meet payments to be made) for goods or services included in Categories I, III and V of the allocation of the proceeds of the Loan referred to in Section 2.02 of this Agreement;
- (ii) the equivalent of forty per cent (40%) of such amounts as shall have been paid (or, if the Bank shall so agree, shall be required to meet payments to be made) for goods or services included in Category II of said allocation of the proceeds of the Loan, which percentage represents the estimated foreign exchange component of the cost of such goods or services; and
- (iii) the equivalent of seventy per cent (70%) of such amounts as shall have been paid (or, if the Bank shall so agree, shall be required to meet payments to be made) for goods or services included in Category IV of said allocation of the proceeds of the Loan, which percentage represents the estimated foreign exchange component of the cost of such goods or services;

provided, however, that if there shall be an increase in the estimate of such payments for goods or services included in any of the Categories II and IV, the Bank may by notice to the Borrower adjust the stated percentage applicable to such Category as required in order that withdrawals of the amount of the Loan then allocated to such Category and not withdrawn may continue *pro rata* with the payments remaining to be made for goods or services included in such Category.

(b) The Borrower shall also be entitled to withdraw from the Loan Account such amounts as shall be required to meet payments to be made for interest and other charges on the Loan accrued on or before December 14, 1976, or such other date as may be agreed between the Bank and the Borrower.

Section 2.04. It is hereby agreed, pursuant to Section 5.01 of the General Conditions, that withdrawals from the Loan Account under Categories II and IV of

the allocation of the proceeds of the Loan referred to in Section 2.02 of this Agreement may be made on account of payments in the currency of the Guarantor, or for goods produced in, or services supplied from, the territories of the Guarantor.

Section 2.05. 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 withdrawn from time to time.

Section 2.06. The Borrower shall pay interest at the rate of seven per cent (7%) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

Section 2.07. Interest and other charges shall be payable semi-annually on June 15 and December 15 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 2 to this Agreement.

Article III

USE OF PROCEEDS OF THE LOAN

Section 3.01. The Borrower shall apply the proceeds of the Loan in accordance with the provisions of this Loan Agreement to expenditures on the Project, described in Schedule 3 to this Agreement.

Section 3.02. Except as the Bank shall otherwise agree, (i) the goods and services to be financed out of the proceeds of the Loan shall be procured on the basis of international competitive bidding in accordance with the *Guidelines for Procurement under World Bank Loans and IDA Credits*, published by the Bank in August 1969, and in accordance with such other procedures supplementary thereto as are set forth in Schedule 4 to this Agreement or as shall be agreed between the Bank and the Borrower, and (ii) contracts for the procurement of such goods and services shall be subject to the concurrence of the Bank.

Section 3.03. Except as the Bank may otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Loan to be used exclusively in carrying out the Project.

Article IV

BONDS

Section 4.01. If and as 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 VIII of the General Conditions.

Section 4.02. The *Gerente* of the Borrower and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 8.10 of the General Conditions.

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) In carrying out the Project, the Borrower shall employ competent and experienced consultants and contractors acceptable to, and to an extent and upon terms and conditions satisfactory to, the Bank and the Borrower.

(c) The Borrower shall promptly furnish or cause to be furnished to the Bank the plans, specifications and work schedules for the Project and any material modifications subsequently made therein, in such detail as the Bank shall reasonably request.

Section 5.02. (a) The Borrower shall: (i) maintain or cause to be maintained records adequate to identify the goods and services 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; and (ii) shall enable the Bank's representatives to inspect the Project, the goods, all other plants, sites, works, properties and equipment of the Borrower and any relevant records and documents.

(b) The Borrower shall: (i) have its accounts and financial statements (balance sheet, statement of income and expenses and related statements) for each fiscal year audited, in accordance with sound auditing principles consistently applied, by independent auditors acceptable to the Bank; (ii) furnish to the Bank as soon as available, but in any case not later than four months after the end of each such year, (A) certified copies of its financial statements for such year as so audited and (B) the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and (iii) furnish to the Bank such other information concerning the accounts and financial statements of the Borrower and the audit thereof as the Bank shall from time to time reasonably request.

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 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 and the maintenance of the service thereof.

(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 Project, the administration, operations and financial condition of the Borrower and other loans or financing required or obtained for the Project.

(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. (a) The Borrower shall at all times manage its affairs, maintain its financial position, plan its future expansion and carry on its operations, all in accordance with sound business, financial and public utility practices and under the supervision of experienced and competent management.

(b) The Borrower shall take all steps necessary to acquire, maintain and renew all rights, powers, privileges and franchises which are necessary or useful in the conduct of its business.

(c) The Borrower shall at all times operate and maintain its plants, equipment and property, and promptly make all necessary repairs and renewals thereof, in accordance with sound engineering and public utility practices.

(d) The Borrower shall not, without the prior approval of the Bank, sell, lease, transfer or otherwise dispose of any of its property or assets which shall be required for the efficient operation of its business and undertaking unless the Borrower shall first pay or redeem, or make adequate provision satisfactory to the Bank for repayment or redemption of, all of the Loan and the Bonds which shall then be outstanding and unpaid.

Section 5.05. (a) The Borrower shall take out and maintain with responsible insurers, or make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, the Borrower undertakes to insure the imported goods financed out of the proceeds of the Loan against marine, transit and other hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower to replace or repair such goods.

Section 5.06. 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 the date on which it is originally incurred.

Section 5.07. The Borrower shall not undertake major capital expenditures other than for the Project until it shall have secured adequate funds to meet such expenditures in accordance with sound financial practices and shall have furnished to the Bank a copy of the financial plan for such expenditures and such additional information relating thereto as the Bank may reasonably request.

Section 5.08. The Borrower shall charge the Shareholders and collect therefrom, in accordance with the *Estatutos*, such amounts as shall be required to cover all its administrative and operating costs in respect of its electric power transmission facilities (including adequate maintenance and provision for depreciation) and interest on, and amortization of, its debt incurred for the purpose of financing such facilities, to the extent that such amortization exceeds provision for depreciation.

Section 5.09. 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, the Shareholders' 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 5.10. 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, the Shareholders' Agreement or the Bonds.

Section 5.11. Upon completion of the study of the accounting and pricing methods and practices of the Borrower and the Shareholders, financed under the First Loan Agreement, the Borrower shall consult with the Bank regarding the findings and recommendations arising from that study and shall promptly amend the *Estatutos* to include such recommendations as shall be agreed upon between the Bank, the Borrower and the Shareholders.

Section 5.12. The Borrower shall use its best efforts to obtain other loans or other financing on reasonable terms from sources outside Colombia and to apply the proceeds of such loans or financing to meet as large a portion as possible of the foreign exchange expenditures on account of the equipment, and the installation thereof, included in the Project.

Section 5.13. Except as the Bank and the Borrower, with the approval of the Guarantor, shall otherwise agree:

- (a) The Borrower shall establish and maintain tariffs for the supply of electricity generated by the Borrower's plants which will provide an annual rate of return of a least nine per cent (9%) on the average current net value of its generating plants in operation calculated in accordance with the method outlined in Schedule 6 to this Agreement.
- (b) The Borrower shall, within the first two months of each calendar quarter, review the adequacy of its tariffs to produce the annual return required under paragraph (a) and shall furnish to the Bank the results of such review.
- (c) If any such review shall show that the Borrower would not earn the annual return required under paragraph (a) in the course of the twelve-month period commencing with such calendar quarter, the Borrower shall adjust its tariffs accordingly, and the adjusted tariffs shall be brought into effect not later than the end of the following calendar quarter.

Section 5.14. (a) In exchange for payments made pursuant to subsection (i) of Section 3.01 of the Shareholders' Agreement, the Borrower shall promptly issue and deliver at par shares of its capital stock representing the aggregate amounts of such payments.

(b) In exchange for payments made pursuant to subsection (ii) of Section 3.01 of the Shareholders' Agreement, the Borrower shall promptly issue and deliver at par bonds, representing the aggregate amounts of such payments, on terms and conditions satisfactory to the Bank.

Article VI

REMEDIES OF THE BANK

Section 6.01. If any event specified in Section 7.01 of the General Conditions or in Section 6.02 of this Agreement shall occur and shall continue for the period, if any, therein set forth, then at any subsequent time during the continuance thereof, the Bank, at its option, may by notice to the Borrower, the Guarantor and the Shareholders declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately together with the interest and other charges thereon and upon any such declaration such principal, interest and charges shall become due and payable immediately, anything to the contrary in this Loan Agreement or in the Bonds notwithstanding.

Section 6.02. For the purposes of Section 7.01 of the General Conditions, the following additional events are specified:

- (a) the *Estatutos*, or any provision thereof, shall have been amended, suspended or abrogated without the prior agreement of the Bank;
- (b) a default shall have occurred in the performance by any of the Shareholders of any obligation on its part under the Shareholders' Agreement or under the *Estatutos*;
- (c) a default shall have occurred in the performance of any obligation on the part of the Borrower, the Guarantor or any of the Shareholders under the First Loan

Agreement, the bonds issued pursuant to that Agreement, or the guarantee agreement or the shareholders' agreement concluded in connection with that Agreement.

Article VII

EFFECTIVE DATE; TERMINATION

Section 7.01. The following event is specified as an additional condition to the effectiveness of this Loan Agreement within the meaning of Section 11.01 (c) of the General Conditions:

That the execution and delivery of the Shareholders' Agreement on behalf of the Shareholders shall have been duly authorized or ratified by all necessary corporate and governmental action.

Section 7.02. The following is specified as an additional matter, within the meaning of Section 11.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank:

That the Shareholders' Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Shareholders and that such Agreement constitutes a valid and binding obligation of the Shareholders in accordance with its terms.

Section 7.03. The date of September 15, 1970 is hereby specified for the purposes of Section 11.04 of the General Conditions.

Article VIII

MISCELLANEOUS

Section 8.01. The Closing Date shall be June 30, 1977, or such other date as shall be agreed between the Bank and the Borrower.

Section 8.02. The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

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:

Intbafrad
Washington, D.C.

For the Borrower:

Interconexión Eléctrica S.A.
Calle 37 No.8-34
Bogotá, D.E.
Colombia

Alternative address for cables:

Interconexión
Bogotá

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 to be delivered in Bogotá, Distrito Especial, Colombia, as of the day and year first above written.

International Bank for Reconstruction and Development:

By GERALD ALTER
Director, South America Department

Interconexión Eléctrica S.A.:

By JOSÉ MARIA PIEDRAHITA
Authorized Representative

SCHEDULE 1

ALLOCATION OF PROCEEDS OF LOAN

<i>Category</i>	<i>Amounts Expressed in Dollar Equivalent</i>
I. Civil works contracts awarded to foreign contractors	28,800,000
II. Civil works contracts awarded to local contractors only	3,600,000
III. Auxiliary electrical and mechanical equipment, intake gates and racks, diversion tunnel valves, 13.2 kV lines, including installation thereof, supplied from outside Colombia	1,800,000
IV. Auxiliary electrical and mechanical equipment, intake gates and racks, diversion tunnel valves, 13.2 kV lines, including installation thereof, supplied from Colombia	600,000
V. Engineering	700,000
VI. Interest and other charges on the Loan	9,400,000
VII. Unallocated	<u>7,400,000</u>
TOTAL	52,300,000

REALLOCATION UPON CHANGE IN COST ESTIMATES

1. If the estimate of the cost of the items included in any of the Categories I to VI shall decrease, the amount of the Loan then allocated to, and no longer required for, such Category will be reallocated by the Bank to Category VII.

2. If the estimate of the cost of the items included in any of the Categories I to VI shall increase, an amount equal to the portion, if any, of such increase to be financed out of the proceeds of the Loan (or, in the case of Category II, an amount equal to 40%, or, in the case of Category IV, an amount equal to 70%, of such increase) will be allocated by the Bank, at the request of the Borrower, to such Category from Category VII, subject, however, to the requirements for contingencies, as determined by the Bank, in respect of the cost of the items in the other Categories.

SCHEDULE 2

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 15, 1977	455,000	December 15, 1989	1,035,000
June 15, 1978	470,000	June 15, 1990	1,070,000
December 15, 1978	485,000	December 15, 1990	1,110,000
June 15, 1979	505,000	June 15, 1991	1,150,000
December 15, 1979	520,000	December 15, 1991	1,190,000
June 15, 1980	540,000	June 15, 1992	1,230,000
December 15, 1980	555,000	December 15, 1992	1,275,000
June 15, 1981	575,000	June 15, 1993	1,315,000
December 15, 1981	595,000	December 15, 1993	1,365,000
June 15, 1982	620,000	June 15, 1994	1,410,000
December 15, 1982	640,000	December 15, 1994	1,460,000
June 15, 1983	660,000	June 15, 1995	1,510,000
December 15, 1983	685,000	December 15, 1995	1,565,000
June 15, 1984	710,000	June 15, 1996	1,620,000
December 15, 1984	735,000	December 15, 1996	1,675,000
June 15, 1985	760,000	June 15, 1997	1,735,000
December 15, 1985	785,000	December 15, 1997	1,795,000
June 15, 1986	815,000	June 15, 1998	1,860,000
December 15, 1986	840,000	December 15, 1998	1,925,000
June 15, 1987	870,000	June 15, 1999	1,990,000
December 15, 1987	900,000	December 15, 1999	2,060,000
June 15, 1988	935,000	June 15, 2000	2,130,000
December 15, 1988	965,000	December 15, 2000	2,205,000
June 15, 1989	1,000,000		

* To the extent that any portion of the Loan is repayable in a currency other than dollars (see General Conditions, Section 4.02), 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 portion of the principal amount of the Loan pursuant to Section 3.05 (b) of the General Conditions or on the redemption of any Bond prior to its maturity pursuant to Section 8.15 of the General Conditions:

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than four years before maturity	3¼%
More than four years but not more than eight years before maturity	2%
More than eight years but not more than fourteen years before maturity	2¾%
More than fourteen years but not more than twenty years before maturity	4¼%
More than twenty years but not more than twenty-seven years before maturity ...	5½%
More than twenty-seven years but not more than twenty-nine years before maturity .	6½%
More than twenty-nine years before maturity	7%

SCHEDULE 3

DESCRIPTION OF THE PROJECT

The Project includes the first phase of a hydroelectric plant on the Bata River near the Esmeralda Creek with an installed capacity of about 500 MW, and a double-circuit 230 kV transmission line. The Project consists of:

Part A. The engineering and construction of:

- (1) a rockfill dam, with central impervious core on a concrete block, having a total volume of about 11 million cubic meters;
- (2) an open channel gated spillway for a maximum flow of about 13,000 cubic meters per second;
- (3) a pressure tunnel, about 6 kilometers long, with an equivalent diameter of approximately 6 meters; and the intake works, gate shaft and about 100 meters of a second future pressure tunnel;
- (4) a surface mounted steel penstock, about 2 kilometers long, with a diameter of approximately 4 meters;
- (5) a powerhouse on the Lengupa River with four units of about 125 MW, each one consisting of a Pelton type turbine for an average net head of about 750 meters, an alternator, three single phase step-up transformers, and related auxiliary electrical and mechanical equipment; and
- (6) an outdoor switchyard including appropriate switching, control and protection equipment.

Part B. The engineering and construction of a 230 kV double-circuit transmission line, about 180 kilometers long, from the plant through Suba to La Mesa, and the necessary works and equipment to connect this line to the existing power transmission systems at Suba and La Mesa substations.

Part C. The engineering and construction of about 30 kilometers of relocated access road between Somondoco and Santa Maria and about 8 kilometers of access roads to the works included in Part A of the Project.

The Project is expected to be completed by June 1976.

SCHEDULE 4

PROCUREMENT

The goods to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions set forth or referred to in Section 3.02 of this Agreement and the following supplementary procedures:

I. With respect to contracts estimated to cost \$100,000 equivalent or more, the following procedures shall apply:

(a) Before bids are invited, the Borrower shall submit to the Bank for concurrence the invitations to bid, specifications and all other tender documents, together with a description of advertising procedures. If prequalification is to be used, the Borrower shall submit to the Bank for concurrence the procedures for such prequalification before the qualification information is invited and, subsequently, the results of the prequalification with a justification thereof.

(b) After bids have been received and analyzed, the bid analysis and recommendation for contract award, together with the reasons for such recommendation shall be submitted to the Bank for concurrence prior to the contract award or the issuance of a letter of intent.

(c) If the proposed final contract differs substantially from the terms and conditions contained in the documents previously approved by the Bank, the text of the proposed contract will be submitted to the Bank for its review and concurrence.

II. With respect to any contract for procurement of such goods estimated to cost less than the equivalent of \$100,000, the Borrower shall submit to the Bank, at the time the award is made, a summary of bids or quotations received, the analysis thereof and the recommendation thereon, together with a copy of the *Acta* of the public opening of the bids.

III. In determining bid prices for the purpose of evaluating bids for equipment to be financed out of the proceeds of the Loan the following rules shall apply:

(a) The term Local Bid means any bid submitted by any manufacturer, established in the territories of the Guarantor, for equipment manufactured or processed

in the territories of the Guarantor to a substantial extent as determined by the Bank; any other bid shall be deemed to be a Foreign Bid.

(b) The price of equipment offered under a Local Bid shall be determined by adding the following amounts:

- (i) an amount representing the ex-factory price of such equipment; and
- (ii) an amount representing inland freight, insurance and other costs of the delivery of such equipment to the place of its use or installation.

(c) The price of equipment offered under a Foreign Bid shall be determined by adding the following amounts:

- (i) an amount representing the c.i.f. landed price of such equipment net of any taxes on their importation;
- (ii) an amount representing inland freight, insurance and other local costs of the delivery of such equipment to the place of its use or installation; and
- (iii) an amount representing the total of such taxes as generally apply to the importation of such equipment into the territories of the Guarantor by non-exempt importers to the extent that such total does not exceed the equivalent of fifteen per cent (15%) of the amount referred to under (c) (i) of this paragraph III.

IV. As soon as contract is signed, and prior to the date of submission of the first application for withdrawal of proceeds of the Loan in respect of any payment thereunder, the Borrower shall furnish to the Bank a certified copy of such contract.

SCHEDULE 5

MODIFICATIONS OF GENERAL CONDITIONS

For the purpose of this Loan Agreement, the provisions of the General Conditions are modified as follows:

1. In Section 2.01, the following definitions shall be added:

“20. The term Shareholders means Corporacion Autonoma Regional del Cauca, Empresa de Energia Eléctrica de Bogotá, Empresas Publicas de Medellin and Instituto Colombiano de Energia Eléctrica.

“21. The term Shareholders’ Agreement means the agreement between the Bank and the Shareholders providing for a guarantee of the Loan and for additional financing of the Project, as amended from time to time, and such term includes these General Conditions.”

2. The words “and the Shareholders” shall be added in Sections 4.02, 8.01, 8.06, 8.13 and 8.18 and in the introductory clause of Section 7.01 after the word

“Guarantor”, and in Sections 6.02, 8.14 and 9.01 and in paragraphs (b), (c) and (i) of Section 9.04 after the words “and the Guarantor”.

3. In Sections 6.06 and 8.17 and in paragraphs (h), (j) and (l) of Section 9.04, the words “and the Shareholders’ Agreement” shall be added after the words “Guarantee Agreement”.

4. In Sections 8.16, 9.03 and 10.01 and in paragraphs (a) and (k) of Section 9.04, the words “or the Shareholders’ Agreement” shall be added after the words “Guarantee Agreement”.

5. In Section 8.18, the words “each guarantee” shall be substituted for the words “the guarantee” and the word “, respectively,” shall be added before the words “in accordance with its terms”.

6. In Section 9.01, the words “the Shareholders’ Agreement” shall be added after the words “Guarantee Agreement” and the words “nor any Shareholder” shall be added after the words “nor the Guarantor”.

7. Section 8.10 shall be deleted and the following new Section shall be substituted therefor:

“SECTION 8.10. *Execution of Bonds and Guarantees.* (a) The Bonds and the guarantees endorsed thereon shall be signed in the name and on behalf of the Borrower, the Guarantor, and the Shareholders, respectively, by their authorized representative or representatives designated in the Loan Agreement and in the Guarantee Agreement and pursuant to the Shareholders’ Agreement for the purposes of this Section. The signature of any such representative may be a facsimile signature if the Bonds, or the guarantees, as the case may be, are also manually countersigned by an authorized representative of the Borrower or of the Guarantor or of any Shareholder. Coupons attached to coupon Bonds shall be authenticated by the facsimile signature of an authorized representative of the Borrower.

“(b) If any authorized representative of the Borrower or of the Guarantor or of any Shareholder, as the case may be, whose manual or facsimile signature shall be affixed to any Bond, coupon, or guarantee shall cease to be such authorized representative, such Bond, with such guarantee endorsed thereon, or coupon may nevertheless be delivered, and shall be valid and binding on the Borrower and the Guarantor and such Shareholder as though the person whose manual or facsimile signature shall have been affixed to such Bond, coupon, or guarantee had not ceased to be such authorized representative”.

8. The following Form of Shareholder’s Guarantee shall be added at the end of Schedule 2:

FORM OF SHAREHOLDER’S GUARANTEES

Each of the following Shareholders: [Names of SHAREHOLDERS], for value received, as a primary obligor and not as surety merely, hereby absolutely and unconditionally guarantees, and pledges its full faith and credit for the due and punctual payment of one-fourth of the principal and redemption price of the within Bond and the interest thereon, free from

taxes as therein provided, prior notice to, demand upon or action against the obligor on said Bond or any other guarantor thereon being waived.

[Names of SHAREHOLDERS] hereby agree to affix a similar guarantee on any Bond or Bonds which shall be dully issued in exchange or substituted for or in replacement of the within Bond.

[Names of SHAREHOLDERS]

By

Authorized Representatives

Dated

SCHEDULE 6

METHOD FOR CALCULATING RATE OF RETURN

(i) The annual return specified in Section 5.13 (a) of the Loan Agreement shall be calculated, in each calendar quarter in respect of the twelve-month period beginning with such quarter and the twelve-month period immediately preceding, by using as the denominator the average between the current values of the Borrower's generating plants in operation at the beginning and at the end of each such period and as numerator the operating income of the Borrower for the same period.

(ii) Any shortfall or overrun in the required annual return for the twelve-month period immediately preceding the quarter in which the calculation is to be made shall be carried forward and subtracted or added, as the case may be, to the numerator used for the forthcoming twelve-month period.

(iii) "Operating income" shall be the difference between all revenues from the sale of electricity generated by the Borrower's plants and all administrative and operating costs relating thereto, including maintenance and adequate provision for depreciation.

(iv) The current value of generating plants shall be at any given date their gross value less accumulated depreciation to such date.

(v) Until another method, satisfactory to the Bank, for the maintenance of value of assets of public utilities shall have been made applicable to the Borrower, the gross value of:

- (1) generating plant the cost of which was incurred in currencies other than currency of the Guarantor shall be the dollar equivalent of such cost at the time of incurrence of expenditures therefor converted into currency of the Guarantor at the exchange rate of the last business day preceding the calendar quarter in which the calculation is to be made;
- (2) generating plant the cost of which was incurred in currency of the Guarantor shall be revalued from the time of incurrence of expenditures therefor in

accordance with the corresponding variations in the *Indice nacional de los precios al consumidor (Costo de Vida) — Obreros* published by the Departamento Administrativo Nacional de Estadística of the Guarantor, or a similar index approved by the Bank, to the last month preceding the calendar quarter in which the calculation is to be made.

(vi) Depreciation shall be accumulated on a straight-line basis at an average rate of 2-1/2% per annum of gross value for hydro-electric plants and 4% per annum of gross value for thermo-electric plants.

(vii) The rate of exchange between the dollar and the currency of the Guarantor at any given time shall be the rate at which the Borrower could have bought dollars at such time with currency of the Guarantor for the importation of equipment.