

No. 11436

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

**Guarantee Agreement—*Salto Osorio Hydroelectric Project*
(with annexed General Conditions Applicable to Loan and
Guarantee Agreements and Loan Agreement between the Bank
and the Centrais Elétricas do Sul do Brasil, S.A.). Signed at
Washington on 5 April 1971**

Authentic text : English.

*Registered by the International Bank for Reconstruction and Development on
16 December 1971.*

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

**Contrat de garantie — *Projet hydro-électrique de Salto
Osorio* (avec, en annexe, les Conditions générales applicables
aux contrats d'emprunt et de garantie et le Contrat d'emprunt
entre la Banque et les Centrais Elétricas do Sul do Brasil,
S.A.). Signé à Washington le 5 avril 1971**

Texte authentique : anglais.

*Enregistré par la Banque internationale pour la reconstruction et le développement
le 16 décembre 1971.*

GUARANTEE AGREEMENT¹

AGREEMENT, dated April 5, 1971, between FEDERATIVE REPUBLIC OF BRAZIL (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by the Loan Agreement of even date herewith² between the Bank and Centrais Elétricas do Sul do Brasil, S.A. (hereinafter called the Borrower) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to seventy million dollars (\$70,000,000), 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;

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; and

WHEREAS the Guarantor represents and warrants that the giving of such guarantee is authorized by Law No. 1518 of December 24, 1951; Articles 22 and 23 of Law No. 1628 of June 20, 1952; Decree No. 57,482 of December 24, 1965 pursuant to Law No. 4131 of September 3, 1962; Law No. 4457 of November 6, 1964; Law No. 5000 of May 24, 1966; and Decree Law No. 1095 of March 20, 1970;

NOW THEREFORE the parties hereto hereby agree as follows :

Article I

GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank dated January 31, 1969,³ with the same force and effect as if they were fully set forth herein, subject, however, to the modification thereof set forth in Section 1.01 of 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 Agreement, unless the context other-

¹ Came into force on 19 July 1971, upon notification by the Bank to the Government of Brazil.

² See p. 286 of this volume.

³ *Ibid.*

wise 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.

Article II

GUARANTEE; BONDS; PROVISION OF FUNDS

Section 2.01. Without limitation or restriction upon any of its other obligations under the 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 other obligations of the Borrower, all as set forth in the Loan Agreement and in the Bonds.

Section 2.02. 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 *Ministro da Fazenda* 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.

Section 2.03. Without limitation or restriction upon the provisions of Section 2.01 of this Agreement, the Guarantor specifically undertakes, whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for the carrying out of the Project, to make arrangements, satisfactory to the Bank, promptly to provide the Borrower or cause the Borrower to be provided with such funds as are needed to meet such expenditures, either by way of loans or equity investment by Eletrobrás, or otherwise.

Article III

OTHER COVENANTS

Section 3.01. (a) It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan or the Bonds by way of a lien on governmental assets.

(b) To that end the Guarantor (i) represents that, considering the limitations set forth in writing to the Bank, at the date of this Agreement no lien exists on any assets of the Guarantor or of any of its political subdivisions or of any agency of any such political subdivision as security for any external debt,

and (ii) undertakes that if any such lien shall hereafter be created, it 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 in the creation of any such lien express provision will be made to that effect. The Guarantor shall promptly inform the Bank of the creation of any such lien.

(c) The foregoing representation and undertaking shall not apply to : (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (ii) any lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods; or (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

The term “ assets of the Guarantor ” as used in this Section includes assets of the Guarantor or of any agency of the Guarantor, including Banco Central do Brasil and any other institution performing the functions of a central bank for the Guarantor.

Section 3.02. (a) The Guarantor will exercise every power, right and recourse available to it to the end that will not take or permit any of its political subdivisions or any of its agencies (including Eletrobrás in its capacity as holder of the majority of the Borrower’s shares, and Banco Central do Brasil and any other institution performing the functions of a central bank for the Guarantor in respect of the allocation or realization of foreign exchange) or any agency of any political subdivision to take any action which would prevent or interfere with the performance by the Borrower of any of the covenants, agreements and obligations of the Borrower in the Loan Agreement contained, and will take or cause to be taken all reasonable action (including action by Eletrobrás in its capacity as holder of the majority of the Borrower’s shares and by Banco Central do Brasil and any other institution performing the functions of a central bank for the Guarantor in respect of the allocation or realization of foreign exchange) which shall be necessary in order to enable the Borrower to perform such covenants, agreements and obligations.

(b) The Guarantor shall cause the agency or agencies of the Guarantor responsible for the setting and adjustment of the Borrower’s rates for the sale of electricity to act in respect of any application of the Borrower for the setting and adjustment of such rates within a period of not more than 30 days after receipt of such application.

Section 3.03. The Guarantor undertakes that it will : (a) take all such action as shall be practicable in the circumstances to encourage effective coordination of the operation of the electricity generating, transmission and distribution facilities of the integrated system into which the power output of the Project will flow; and (b) take or cause to be taken all such timely and

effective action as shall be necessary or advisable in respect of the expansion of the transmission and distribution facilities in the areas served by such system in order to ensure that the electricity generated and to be generated by the system will efficiently reach the retailers and consumers in such areas.

Section 3.04. The Guarantor shall take all such measures as shall be necessary in order to facilitate the importation by the Borrower of goods to be financed out of the proceeds of the Loan purchased outside Brazil in accordance with the provisions of the Loan Agreement.

Article IV

CONSULTATION AND INFORMATION

Section 4.01. The Guarantor and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end the Guarantor and the Bank shall from time to time, at the request of either party : (i) exchange views through their representatives with regard to the performance of their respective obligations under the Guarantee Agreement and other matters relating to the purposes of the Loan; and (ii) 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, including its balance of payments, and the external debt of the Guarantor, of any of its political subdivisions and of any agency of the Guarantor or of any such political subdivision. On the part of the Bank, such information shall include such information as shall be available to the Bank regarding the performance of the obligations of the Borrower under the Loan Agreement.

Section 4.02. (a) 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.

(b) 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.

Article V

TAXES AND RESTRICTIONS

Section 5.01. 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 foregoing 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 5.02. The Guarantee 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 5.03. The payment of the principal of, and interest and other charges on, the Loan and the Bonds shall be free from all restrictions, regulations, controls or moratoria of any nature imposed under the laws of the Guarantor or laws in effect in its territories.

Article VI

REPRESENTATIVE OF THE GUARANTOR; ADDRESSES

Section 6.01. The *Ministro da Fazenda* of the Guarantor is designated as representative of the Guarantor for the purposes of Section 10.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 10.01 of the General Conditions :

For the Guarantor :

Ministério da Fazenda
Av. Presidente Antonio Carlos 375
Rio de Janeiro, Brazil
Cable address :
Minifaz
Rio de Janeiro

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.

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.

Federative Republic of Brazil :

By ANTONIO DELFIM NETO
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 April 5, 1971, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and CENTRAIS ELÉTRICAS DO SUL DO BRASIL, S.A. (hereinafter called the Borrower).

Article I

GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated January 31, 1969,¹ with the same force and effect as if they were fully set forth herein, subject, however, to the deletion of Section 5.01 thereof (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 Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth, and the term "Eletrobrás" means Centrais Elétricas Brasileiras, S.A.—Eletrobras, an agency of the Guarantor, or any successor or successors thereto.

¹ See above.

Article II

THE LOAN

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies equivalent to seventy million dollars (\$70,000,000).

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule shall be amended from time to time by agreement between the Bank and the Borrower, for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project described in Schedule 3 to this Agreement and to be financed under the Loan Agreement and in respect of interest and other charges on the Loan; provided, however, that, except as the Bank shall otherwise agree, no withdrawal shall be made on account of expenditures in the territories of any country which is not a member of the Bank (other than Switzerland) or for goods produced in, or services supplied from, such territories.

Section 2.03. The Closing Date shall be May 31, 1977, or such other date as shall be agreed between the Bank and the Borrower.

Section 2.04. 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 2.05. The Borrower shall pay interest at the rate of seven and one-quarter per cent ($7\frac{1}{4}$ %) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

Section 2.06. Interest and other charges shall be payable semi-annually on June 15 and December 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 2 to this Agreement.

Section 2.08. 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 2.09. The *Presidente* and one *Director* 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 III

EXECUTION OF THE PROJECT

Section 3.01. The Borrower shall carry out the Project with due diligence and efficiency and in conformity with sound engineering, financial and public utility practices.

Section 3.02. In order to assist the Borrower in the preparation of plans,

specifications and bidding documents for the Project and in the supervision of the construction of the Project, the Borrower shall employ engineering consultants acceptable to the Bank upon terms and conditions satisfactory to the Bank.

Section 3.03. In carrying out the works included in the Project, the Borrower shall employ contractors acceptable to the Bank upon terms and conditions satisfactory to the Bank.

Section 3.04. (a) Except as the Bank shall otherwise agree, the goods and services (other than engineering and other consultants' services) required for the Project and 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.

(b) The Borrower undertakes to insure, or make adequate provision for the insurance of, the imported goods to be 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.

(c) Except as the Bank shall otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Loan to be used exclusively for the Project.

Section 3.05. (a) The Borrower shall furnish to the Bank, promptly upon their preparation, the plans, specifications and work schedules for the Project, and any material modifications or amplifications thereof, in such detail as the Bank shall reasonably request.

(b) The Borrower : (i) shall maintain records adequate to record the progress of the Project (including the cost thereof) and to identify the goods and services financed out of the proceeds of the Loan, and to disclose the use thereof in the Project; (ii) shall enable the Bank's representatives to inspect the Project, the goods financed out of the proceeds of the Loan and any relevant records and documents; and (iii) shall furnish to the Bank all such information as the Bank shall reasonably request concerning the Project, the expenditure of the proceeds of the Loan and the goods and services financed out of such proceeds.

Article IV

MANAGEMENT AND OPERATIONS OF THE BORROWER

Section 4.01. (a) The Borrower shall at all times maintain its corporate existence and right to carry on its operations and shall take all steps necessary to acquire, maintain and renew all rights, powers, privileges, concessions and franchises which are necessary or useful in the conduct of its business.

(b) The Borrower shall operate and maintain its plants, equipment and property,

and from time to time make all necessary renewals and repairs thereof, all in accordance with sound engineering and public utility practices.

Section 4.02. The Borrower shall at all times manage its affairs, plan the future expansion of its power system and maintain its financial position, all in accordance with sound business, financial and public utility principles and practices and under the supervision of experienced and competent management.

Section 4.03. 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.

Section 4.04. The Borrower shall (i) maintain records adequate to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the Borrower, (ii) enable the Bank's representatives to inspect the plants, sites, works, properties and equipment of the Borrower not included in the Project and any relevant records and documents, and (iii) furnish to the Bank all such information as the Bank shall reasonably request concerning the administration, financial condition and operations of the Borrower.

Article V

FINANCIAL COVENANTS

Section 5.01. The Borrower shall: (i) have its accounts and financial statements (balance sheets, statements of income and expenses and surplus) 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 5.02. The Borrower undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower as security for any debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; (ii) any lien on commercial goods to secure a debt maturing not more than one year after the date on which it is originally incurred and to be paid out of the proceeds of sale of such commercial goods; (iii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date; or (iv) any lien in favor of the Guarantor, on terms and

conditions satisfactory to the Guarantor, the Bank and the Borrower, and by its terms expressly subordinated to the claims of the Bank hereunder, which is created to secure obligations of the Borrower to the Guarantor arising out of the Guarantor's guarantee of the Loan.

Section 5.03. Except as the Bank shall otherwise agree : (a) the Borrower shall obtain title to all goods financed out of the proceeds of the Loan free and clear of all encumbrances; and (b) the Borrower shall not sell or otherwise dispose of any of its property or assets which shall be required for the efficient carrying on of its business and undertaking, including the Project, unless the Borrower shall first pay or redeem, or make adequate provisions satisfactory to the Bank for payment or redemption of, all of the Loan and the Bonds which shall then be outstanding and unpaid, provided, however, that the Borrower may sell or otherwise dispose of any of its property which shall have become obsolete, worn out or unnecessary for use in its plant.

Section 5.04. Except as the Bank shall otherwise agree, the Borrower shall not, until the Project shall have been completed, undertake, or permit to be undertaken on its behalf, any major generation or transmission expansion project, other than the Project, or make any major acquisition of assets, except in accordance with a financing plan satisfactory to the Bank.

For the purposes of this Section, a "major generation or transmission expansion project" or "major acquisition of assets" shall be deemed to be a project or acquisition, the aggregate cost of which shall be in excess of the equivalent of one per cent (1%) of gross fixed assets in operation plus work-in-progress.

Section 5.05. Except as the Bank and the Borrower shall otherwise agree :

- (a) the Borrower shall take all such action (including, in such cases where automatic rate adjustments are not permitted, action with respect to the filing, within a period of not more than five months after the end of every calendar year, of appropriate applications in respect of rates) as shall be necessary or advisable to : (i) cause the Borrower's rates for the sale of electricity to be set and maintained at such levels as will produce revenues, as provided by the legislation of the Guarantor in effect on the date of this Agreement, sufficient to ensure the continued operation of the Borrower's business in accordance with sound financial and public utility practices, using straight-line depreciation which shall be not less than that based on the useful lives of depreciable assets in operation; and (ii) enable the agency or agencies of the Guarantor responsible for the setting and adjustment of such rates to act promptly in respect thereof; and
- (b) the Borrower shall, as permitted by the legislation of the Guarantor in effect on the date of this Agreement, revalue its assets at least once every calendar year, such revaluation to reflect a realistic valuation of such assets, and apply for the corresponding rate adjustments.

Section 5.06. (a) Except as the Bank and the Borrower shall otherwise agree, the Borrower shall not incur any debt :

- (i) unless the net revenues of the Borrower for the fiscal year immediately preceding the date of such incurrence or for a later 12-month period ended prior to the date

of such incurrence, whichever is the greater, shall be more than 1.5 times the maximum debt service requirements on all the Borrower's debt (including the debt to be incurred) in any succeeding financial year (including the financial year in which such debt is to be incurred); or

(ii) if by incurring such debt the total debt of the Borrower shall exceed 60% of its total fixed assets or its capitalization, whichever is less.

(b) For the purposes of this Section :

(i) The term " debt " means all debt except debt maturing by its terms on demand or less than one year after it is incurred in the ordinary course of business.

(ii) Debt shall be deemed to be incurred on the date of execution and delivery of the contract, loan agreement or other instrument providing for such debt.

(iii) The term " net revenues " means gross revenues from all sources, adjusted to take account of the Borrower's tariffs in effect at the time of the incurrence of debt even though they were not in effect during the fiscal year or twelve-month period to which such revenues relate, less all expenses of operation and maintenance in connection with the generation, transmission and distribution of electricity, administration, and taxes, if any, but before deduction of provision for depreciation and amortization of assets, interest and other charges on debt.

(iv) The term " debt service requirements " means the aggregate amount of amortization (including sinking fund payments, if any) of, and interest and other charges on, debt.

(v) The term " total fixed assets " means gross fixed assets in operation less depreciation, amortization and reversion reserves and less contributions in aid of construction plus the cost of construction work-in-progress, all such items to be revalued on the basis of the latest applicable official revaluation coefficients.

(vi) The term " capitalization " means the total debt of the Borrower plus its share capital, surplus, legal reserve and reserve for future capital increases.

(vii) Whenever for purposes of this Section it shall be necessary to value in terms of currency of the Guarantor debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt.

(c) The Borrower shall furnish to the Bank annually, as soon as practicable after the end of each calendar year, a statement of the following :

(i) the Borrower's total fixed assets as defined in paragraph (b) of this Section, as of the end of such calendar year;

(ii) the outstanding debt of the Borrower as defined in paragraph (b) of this Section, as of the end of such calendar year;

(iii) the arithmetical ratio of (ii) to (i);

(iv) the Borrower's estimated fixed capital expenditures less estimated retirements, for the calendar year then in progress;

- (v) the estimated change in debt of the Borrower as defined in paragraph (b) of this Section, net of amortization of debt, for the calendar year then in progress; and
- (vi) the arithmetical ratio of the sum of (ii) and (v) to the sum of (i) and (iv).

All items in such statement shall be expressed in currency of the Guarantor. In calculating the amount of debt in currency of the Guarantor subject to revaluation, account will be taken of any law or contract relating thereto.

Section 5.07. The Borrower shall, if necessary in order to comply with the provisions of Section 5.06 of this Agreement, take all appropriate action to permit Eletrobrás, in its capacity as holder of the majority of the Borrower's shares, to convert into an equity contribution to the Borrower's capital such amount of outstanding long-term debt of the Borrower held by Eletrobrás as shall be required for the purpose of compliance therewith.

Section 5.08. The Borrower, to the extent permitted by the laws of the Guarantor, shall :

- (i) review its policies for charging depreciation and amortization (if any) on its plants, equipment and other facilities;
- (ii) prior to the completion of the Project, submit to the Bank for its approval a schedule of depreciation and amortization (if any) rates to be applied to the Borrower's plants, equipment and other facilities; and
- (iii) except as the Bank shall otherwise agree, thereafter implement the schedule of depreciation and amortization (if any) rates referred to in sub-paragraph (ii) above.

Article VI

CONSULTATION AND INFORMATION

Section 6.01. 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 of their respective obligations under the Loan Agreement, the administration, operations and financial condition of the Borrower and other matters relating to the purpose of the Loan.

Section 6.02. The Bank and the Borrower shall promptly inform each other 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 either of them of its obligations under the Loan Agreement.

Article VII

TAXES

Section 7.01. 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 Agreement¹ or the Bonds, or the payment of principal, interest or other charges thereunder; provided, however, that the provisions of this Section shall not apply to taxation of 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 7.02. The Borrower shall pay or cause to be paid all taxes, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries on or in connection with the execution, issue, delivery or registration of the Loan Agreement, the Guarantee Agreement or the Bonds.

Article VIII

REMEDIES OF THE BANK

Section 8.01. If any event specified in Section 7.01 of the General Conditions or in Section 8.03 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 and the Guarantor 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 the Loan Agreement or in the Bonds notwithstanding.

Section 8.02. For the purposes of Section 6.02 of the General Conditions, the following additional events are specified :

(a) A change in the legislation of the Guarantor shall occur, which, in the judgment of the Bank, shall materially and adversely affect the carrying on of the Borrower's business or the setting or adjustment of the Borrower's rates for the sale of electricity at such levels as shall be necessary to provide the Borrower with revenues sufficient to ensure the continued operation of the Borrower's business in accordance with sound financial and public utility practices.

For the purposes of this paragraph the term "change in the legislation of the Guarantor" shall mean any change (including, but without limitation, any amendment or repeal of, or failure to carry out or enforce, any such legislation) in the entire body of legislation of the Guarantor (including, but without limitation, all constitutional provisions, statutes, laws, decree-laws, executive decrees and regulations, and any other legal provisions of a similar nature) directly or indirectly relating to the carrying on of the Borrower's business and the determination and adjustment of the Borrower's rates for the sale of electricity.

(b) A default shall occur in the performance of any obligation of Eletrobrás under the undertaking referred to in Section 9.01 (a) of this Agreement.

Section 8.03. For the purposes of Section 7.01 of the General Conditions, the following additional events are specified :

¹ See p. 276 of this volume.

(a) The event specified in Section 8.02 (a) of this Agreement shall occur.

(b) The event specified in Section 8.02 (b) of this Agreement shall occur and shall continue for a period of 60 days after notice thereof shall have been given by the Bank to the Borrower and the Guarantor.

Article IX

EFFECTIVE DATE; TERMINATION

Section 9.01. The following events are specified as additional conditions to the effectiveness of the Loan Agreement within the meaning of Section 11.01 (c) of the General Conditions :

- (a) that the Borrower has obtained from Eletrobrás a firm undertaking satisfactory to the Bank to provide or cause to be provided to the Borrower, promptly as needed, all such funds as may be required by the Borrower to enable the Borrower to carry out the Project with due diligence and efficiency;
- (b) that, except as the Bank shall otherwise agree, all necessary acts, consents and approvals to be performed or given by the Guarantor, its political subdivisions or agencies or by any agency of any political subdivision or otherwise to be performed or given in order to authorize the carrying out of the Project and to enable the Borrower to perform all of the covenants, agreements and obligations of the Borrower in the Loan Agreement contained, together with all necessary powers and rights in connection therewith, have been performed or given; and
- (c) that the Loan Agreement has been duly registered by Banco Central do Brasil.

Section 9.02. The following are specified as additional matters, 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 :

- (a) that the undertaking referred to in Section 9.01 (a) of this Agreement is a valid and binding obligation of Eletrobrás in accordance with its terms;
- (b) that all acts, consents and approvals referred to in Section 9.01 (b) of this Agreement, together with all necessary powers and rights in connection therewith, have been duly and validly performed or given and that no other such acts, consents or approvals are required in order to authorize the carrying out of the Project and to enable the Borrower to perform all of the covenants, agreements and obligations of the Borrower in the Loan Agreement contained; and
- (c) that the Loan Agreement has been duly registered by Banco Central do Brasil.

Section 9.03. The date of August 1, 1971 is hereby specified for the purposes of Section 11.04 of the General Conditions.

Article X

ADDRESSES

Section 10.01. 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

Cable address :

Intbafrad
Washington, D.C.

For the Borrower :

Centrais Elétricas do Sul do Brasil, S.A.—Eletrosul
Avenida Presidente Vargas 446—2º Andar
Rio de Janeiro, GB
Brasil

Cable address :

Eletrosul
Rio

Telex :

Code 031-509
Rio de Janeiro

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 to be 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 ROBERT S. MCNAMARA
President

Centrais Elétricas do Sul do Brasil, S.A. :

By MÁRIO LANNES CUNHA
Authorized Representative

By FERNANDO MARCONDES DE MATTOS
Authorized Representative

SCHEDULE 1

WITHDRAWAL OF THE PROCEEDS OF THE LOAN

1. The table below sets forth the categories of items to be financed out of the proceeds of the Loan, the allocation of amounts of the Loan to each category and the percentage of eligible expenditures so to be financed in each category :

<i>Category</i>	<i>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</i>	<i>% of Expenditures to be Financed</i>
I. Equipment for the Salto Osorio plant	20,000,000	100% of total expenditures
II. Equipment for transmission facilities.	26,000,000	100% of total expenditures
III. Engineering services	4,200,000	100% of foreign expenditures
IV. Technical and management consulting services and training	1,000,000	100% of foreign expenditures
V. Interest and other charges on the Loan accrued on or before December 31, 1976	10,000,000	100% of total expenditures
VI. Unallocated	8,800,000	
TOTAL	<u>70,000,000</u>	

2. For the purposes of this Schedule :

- (a) the term "foreign expenditures" means expenditures for goods produced in, or services supplied from, the territories, and in the currency, or any member of the Bank (other than the Guarantor) or of Switzerland;
- (b) the term "local expenditures" means expenditures in the currency of the Guarantor, or for goods produced in, or services supplied from, the territories of the Guarantor; and
- (c) the term "total expenditures" means the aggregate of foreign and local expenditures.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of :

- (a) expenditures prior to the date of this Agreement, except that withdrawals may be made in respect of Category III on account of expenditures incurred after December 1, 1969;
- (b) expenditures in respect of equipment included in Categories I and II exceeding (i) in the case of imported equipment, the c.i.f. cost of such equipment at the Borrower's port of entry and (ii) in the case of equipment produced in the territories of the Borrower, the FOB cost of such equipment at the factory of manufacture; and
- (c) payments for taxes imposed under the laws of the Guarantor or laws in effect in its territories on goods or services, or on the importation, manufacture, procurement or supply thereof. To the extent that the amount represented by the percentage set forth in the third column of the table in paragraph 1 above would exceed the amount payable net of all such taxes, such percentage shall be reduced to ensure that no proceeds of the Loan will be withdrawn on account of payments for such taxes.

4. Notwithstanding the allocation of an amount of the Loan set forth in the second column of the table in paragraph 1 above :

- (a) if the estimate of the expenditures under any Category shall decrease, the amount of the Loan then allocated to such Category and no longer required therefor will be reallocated by the Bank by increasing correspondingly the unallocated amount of the Loan;
- (b) if the estimate of the expenditures under any Category shall increase, the percentage set forth in the third column of the table in paragraph 1 above in respect of such expenditures shall be applied to the amount of such increase, and a corresponding amount will be allocated by the Bank, at the request of the Borrower, to such Category from the unallocated amount of the Loan, subject, however, to the requirements for contingencies, as determined by the Bank, in respect of any other expenditures.

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>
June 15, 1977	885,000	December 15, 1986	1,740,000
December 15, 1977	915,000	June 15, 1987	1,805,000
June 15, 1978	950,000	December 15, 1987	1,870,000
December 15, 1978	985,000	June 15, 1988	1,935,000
June 15, 1979	1,020,000	December 15, 1988	2,005,000
December 15, 1979	1,055,000	June 15, 1989	2,080,000
June 15, 1980	1,095,000	December 15, 1989	2,155,000
December 15, 1980	1,135,000	June 15, 1990	2,230,000
June 15, 1981	1,175,000	December 15, 1990	2,315,000
December 15, 1981	1,220,000	June 15, 1991	2,395,000
June 15, 1982	1,260,000	December 15, 1991	2,485,000
December 15, 1982	1,310,000	June 15, 1992	2,575,000
June 15, 1983	1,355,000	December 15, 1992	2,665,000
December 15, 1983	1,405,000	June 15, 1993	2,765,000
June 15, 1984	1,455,000	December 15, 1993	2,865,000
December 15, 1984	1,510,000	June 15, 1994	2,965,000
June 15, 1985	1,565,000	December 15, 1994	3,075,000
December 15, 1985	1,620,000	June 15, 1995	3,185,000
June 15, 1986	1,680,000	December 15, 1995	3,295,000

* 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 three years before maturity	3%
More than three years but not more than six years before maturity	2½%
More than six years but not more than twelve years before maturity	3%
More than twelve years but not more than seventeen years before maturity	4½%
More than seventeen years but not more than twenty-two years before maturity	5½%
More than twenty-two years but not more than twenty-four years before maturity	6½%
More than twenty-four years before maturity	7½%

SCHEDULE 3

DESCRIPTION OF THE PROJECT

The Project consists of the Salto Osorio hydroelectric generating plant on the Iguazu River and transmission facilities, as follows :

1. A powerhouse and associated civil and ancillary works with hydroelectric units aggregating approximately 700 Mw; and
2. Associated transmission facilities.

The Project also includes technical and management consulting services and training for the staff of the Borrower.

The Project is expected to be completed by mid-1976.

SCHEDULE 4

PROCUREMENT

1. With respect to contracts for the procurement of goods estimated to cost in excess of \$100,000 equivalent :

(a) Prior to inviting bids, evidence of the methods for procurement of such goods will be furnished to the Bank for its comments, including : (i) names of the countries notified of the Borrower's intention to invite bids and information on advertisements placed in newspapers and other publications; (ii) where prequalification is used, names of firms expressing an interest in prequalifying as bidders, of those to be invited to prequalify, and of those which the Borrower proposes to prequalify, together with the reasons for rejecting those not prequalified.

(b) Before issuing any specification or bidding documents for the purchase of such goods, the Borrower will submit copies thereof to the Bank for its comments.

(c) Bidders will be given all pertinent information regarding the matters covered in paragraphs 3 and 4 below.

(d) The Borrower will, before making any award, submit to the Bank the Borrower's analysis of bids and recommendation for award of the contract. The Bank shall promptly inform the Borrower whether it has any objection to the intended award on the ground that it would be inconsistent with the provisions of the Guidelines referred to in Section 3.04 (a) of this Agreement or with the Loan Agreement, and shall state the reasons for any such objection.

(e) If the contract shall be awarded over the Bank's reasonable objection on the ground of inconsistency with such Guidelines or the Loan Agreement or if its terms and conditions shall, without the Bank's concurrence, materially differ from those on which bids were asked, no expenditures thereunder shall be financed out of the proceeds of the Loan.

(f) As soon as a letter of intent has been issued or a contract has been executed, a copy thereof will be sent to the Bank.

2. With respect to contracts for the procurement of goods estimated to cost \$100,000 equivalent or less, copies of all tender documents, including the Borrower's evaluation report, evidence of advertising procedures, and a copy of the executed contract will be sent to the Bank before the first request for disbursement relating to the respective contract is made. The Bank shall promptly inform the Borrower if it reasonably determines that the award of the contract is inconsistent with such Guidelines or with the Loan Agreement and, in such event, no expenditures under such contract shall be financed out of the proceeds of the Loan.

3. The Borrower intends to invite firms producing goods in Brazil to participate in the international competitive bidding. In the case of goods produced in Brazil, the Borrower may award the order to the lowest Brazilian bidder offering satisfactory terms and conditions, provided that his offered price does not exceed the offered price of the lowest acceptable foreign bidder by more than 15%. Comparison of bids will be made for goods delivered at Project site and without taking into account customs duties. For firms in Brazil, the delivery at the site price will comprise the f.o.b. plant cost plus freight, insurance and other costs to the Project site. For non-Brazilian firms, the delivery price will be based on the quoted c.i.f. price, port of entry, exclusive of customs duties and similar taxes on importation, plus inland freight, insurance and other costs to the Project site. As the 15% preference allowed firms in Brazil is in lieu of customs duties, the 15% will be added to the c.i.f. landed cost of the non-Brazilian goods, before inland freight, insurance and other costs. In the case of bids composed of both cruzeiros and foreign currency the cruzeiro portion thereof will be dealt with as a Brazilian bid and the foreign exchange portion as a non-Brazilian bid.

4. For comparison purposes all bids after evaluation will be converted into cruzeiros at the Bid Comparison Rate of Exchange. The Bid Comparison Rate of Exchange is understood to be the dollar selling rate of exchange fixed by the Banco do Brasil S.A. prevailing on the date bids are awarded. It is further understood that the Bank will, on its own initiative or at the request of the Guarantor or the Borrower, reconsider and, if necessary, revise the Bid Comparison Rate of Exchange, whenever there should be a substantial change in the Brazilian exchange system which would, in the judgment of the Bank, render such rate unsuitable for bid comparison purposes.

5. Spare parts and other items required to be compatible with existing equipment and such minor items as are, for reasons of economy, customarily procured without competition are excepted from the requirement of international competitive bidding set forth in Section 3.04 (a) of the Loan Agreement.
