

No. 7176

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

Guarantee Agreement—*Thermoelectric Power Project* (with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and Empresa Termoelectrica Portuguesa S.A.R.L.). Signed at Washington, on 6 November 1963

Official text: English.

Registered by the International Bank for Reconstruction and Development on 23 March 1964.

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

Contrat de garantie — *Projet relatif à l'énergie thermo-électrique* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et l'Empresa Termoelectrica Portuguesa S.A.R.L.). Signé à Washington, le 6 novembre 1963

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 23 mars 1964.

No. 7176. GUARANTEE AGREEMENT¹ (*THERMOELECTRIC POWER PROJECT*) BETWEEN THE REPUBLIC OF PORTUGAL AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 6 NOVEMBER 1963

AGREEMENT, dated November 6, 1963, between REPUBLIC OF PORTUGAL (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS by an agreement of even date herewith between the Bank and Empresa Termoelectrica Portuguesa S.A.R.L. (hereinafter called the Borrower), which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,² the Bank has agreed to make to the Borrower a loan in various currencies equivalent to five million dollars (\$5,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed so to guarantee such obligations of the Borrower;

NOW THEREFORE the parties hereto hereby agree as follows :

Article I

Section 1.01. The parties to this Guarantee Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated February 15, 1961,³ subject, however, to the modification thereof set forth in Section 1.01 of the Loan Agreement (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

Article II

Section 2.01. Without limitation or restriction upon any of the other covenants on its part in this Agreement contained, the Guarantor hereby un-

¹ Came into force on 10 February 1964, upon notification by the Bank to the Government of Portugal.

² See p. 146 of this volume.

³ See p. 144 of this volume.

conditionally guarantees, as primary obligor and not as surety merely, the due and punctual payment of the principal of, and the interest and other charges on, the Loan, the principal of and interest on the Bonds, and the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, all as set forth in the Loan Agreement and in the Bonds.

Section 2.02. Whenever there is reasonable cause to believe that the funds available to the Borrower will be inadequate to meet the estimated expenditures required for carrying out the Project, the Guarantor undertakes to make arrangements or cause arrangements to be made to enable the Borrower promptly to be provided with such funds as are needed to meet such expenditures.

Article III

Section 3.01. It is the mutual intention of the Guarantor and the Bank that no other external debt shall enjoy any priority over the Loan by way of a lien on governmental assets. To that end, the Guarantor undertakes that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Guarantor as security for any external debt, such lien will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds, and that in the creation of any such lien express provision will be made to that effect; provided, however, that the foregoing provisions of this Section shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for the payment of the purchase price of such property; or (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

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

Section 3.02. (a) The Guarantor and the Bank shall co-operate fully to assure that the purposes of the Loan will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Guarantor, such information shall include information with respect to financial and economic conditions in the territories of the Guarantor and the international balance of payments position of the Guarantor.

(b) The Guarantor and the Bank shall from time to time exchange views through their representatives with regard to matters relating to the purposes of

the Loan and the maintenance of the service thereof. The Guarantor shall promptly inform the Bank of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Loan or the maintenance of the service thereof.

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

Section 3.03. The Guarantor shall from time to time take or cause to be taken all governmental action necessary to permit the Borrower to obtain revenues from the supply of electricity sufficient : (i) to cover operating and administrative expenses, including taxes, adequate maintenance and interest payments; (ii) to provide for adequate depreciation; (iii) to meet periodical repayments on long-term indebtedness to the extent that such repayments exceed provision for depreciation; and (iv) to leave a reasonable surplus, after dividends, to finance new investment.

Section 3.04. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes imposed under the laws of the Guarantor or laws in effect in its territories; provided, however, that the provisions of this Section shall not apply to taxation of payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

Section 3.05. This Agreement, the Loan Agreement and the Bonds shall be free from any taxes that shall be imposed under the laws of the Guarantor or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof.

Section 3.06. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid free from all restrictions imposed under the laws of the Guarantor or laws in effect in its territories.

Article IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. The Minister of Finance of the Guarantor and such person or persons as he shall designate in writing are designated as the authorized representatives of the Guarantor for the purposes of Section 6.12 (b) of the Loan Regulations.

Article V

Section 5.01. The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Guarantor :

Ministerio das Finanças
Lisboa
Portugal

For the Bank :

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington 25, D.C.
United States of America

Alternative address for cablegrams and radiograms :

Intbafrad
Washington, D.C.

Section 5.02. The Minister of Finance of the Guarantor is designated for the purposes of Section 8.03 of the Loan Regulations.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Guarantee Agreement to be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of Portugal :

By P. T. PEREIRA
Authorized Representative

International Bank for Reconstruction and Development :

By G. M. WILSON
Vice President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 FEBRUARY 1961

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO BORROWERS OTHER THAN
MEMBER GOVERNMENTS

[*Not published herein. See United Nations, Treaty Series. Vol. 400, p. 212.*]