
LOAN NUMBER 545-GU

Loan Agreement

(Guacalate Power Project)

BETWEEN

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

AND

INSTITUTO NACIONAL DE ELECTRIFICACION

DATED *June 28*, 1968

Loan Agreement

AGREEMENT, dated *June 28*, 1968, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank) and INSTITUTO NACIONAL DE ELECTRIFICACION (hereinafter called the Borrower), an autonomous public entity established by Decree No. 1287 of May 27, 1959, enacted by the Congress of the Republic of Guatemala, as amended.

ARTICLE I

Loan Regulations

SECTION 1.01. The parties to the Loan Agreement accept all the provisions of Loan Regulations No. 4 of the Bank dated February 15, 1961 as amended February 9, 1967, with the same force and effect as if they were fully set forth herein, subject, however, to the following modification thereof (said Loan Regulations No. 4 as so modified being hereinafter called the Loan Regulations), namely, clause (a) of the last sentence of Section 4.01 shall read as follows:

“(a) expenditures prior to the date of the Loan Agreement or”.

SECTION 1.02. Unless the context otherwise requires, the following terms, wherever used in this Agreement, shall have the following meanings:

(a) The term “*Estatuto*” means Decree No. 1287 of May 27, 1959, enacted by the Congress of the Guarantor, as amended up to the date of this Agreement.

(b) The term “First Loan Agreement” means the loan agreement (Power Project) of March 10, 1967, between the Bank and the Borrower.

(c) The term "First Guarantee Agreement" means the guarantee agreement (Power Project) of March 10, 1967, between the Guarantor and the Bank.

(d) The term "Guidelines" means the Guidelines Relating to Procurement of World Bank Loans and IDA Credits published by the Bank in February 1968.

ARTICLE II

The Loan

SECTION 2.01. The Bank agrees to lend to the Borrower an amount in various currencies equivalent to seven million dollars (\$7,000,000).

SECTION 2.02. The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Account the amount of the Loan. The amount of the Loan may be withdrawn from the Loan Account as provided in, and subject to the rights of cancellation and suspension set forth in, this Agreement and in the Loan Regulations.

SECTION 2.03. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ($\frac{3}{4}$ of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time.

SECTION 2.04. The Borrower shall pay interest at the rate of six and one-fourth per cent ($6\frac{1}{4}\%$) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

SECTION 2.05. Except as the Bank and the Borrower shall otherwise agree, the charge payable for special commitments entered into by the Bank at the request of the Borrower pursuant to Section 4.02 of the Loan Regulations shall be at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per annum on the principal amount of any such special commitments outstanding from time to time.

SECTION 2.06. Interest and other charges shall be payable semi-annually on January 1 and July 1 in each year.

SECTION 2.07. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1 to this Agreement.

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 Agreement to expenditures on the Project described in Schedule 2 to this Agreement. The specific allocation of the proceeds of the Loan shall be determined by agreement between the Borrower and the Bank, subject to modification by further agreement between them.

SECTION 3.02. Except as the Bank shall otherwise agree, the goods to be financed out of the proceeds of the Loan shall be financed on the basis of international competitive bidding as set forth in the Guidelines and in accordance with such other procedures supplementary thereto as shall be agreed between the Bank and the Borrower.

SECTION 3.03. Except as the Borrower and the Bank shall otherwise agree, the Borrower shall cause all goods financed out of the proceeds of the Loan to be used 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 the Loan Regulations.

SECTION 4.02. The President of the *Consejo Directivo* of the Borrower is designated as authorized representative of the Borrower for the purposes of Section 6.12 (a) of the Loan Regulations. The President of the *Consejo Directivo* of the Borrower may designate additional or other representatives by appointment in writing notified to the Bank.

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) Except as the Bank and the Borrower shall otherwise agree, the Borrower shall, in the carrying out of the Project, 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.

SECTION 5.02. (a) The Borrower shall conduct its business and operations, plan its future expansion and maintain its financial position in accordance with sound business, financial and public utility practices under the supervision of qualified and experienced management.

(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; and shall, except as the Bank shall otherwise agree, take all steps which may be necessary to acquire, maintain and renew all rights, powers, privileges and franchises which are necessary or useful for the construction and operation of the Project and the conduct of its business.

(c) Except as the Bank and the Borrower shall otherwise agree, the Borrower shall not sell, lease, transfer or other-

wise dispose of its property or assets which shall be required for the efficient operation of its business and undertaking, including the Project.

SECTION 5.03. The Borrower shall furnish to the Bank, promptly upon their preparation, the plans, specifications and construction and installation schedules for the Project, and any material modifications subsequently made therein, in such detail as the Bank shall from time to time request.

SECTION 5.04. (a) The Borrower shall maintain records adequate to identify the goods 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 financial condition and operations of the Borrower.

(b) The Borrower shall enable the Bank's representatives to inspect the Project, the goods, and all other plants, works, properties and equipment of the Borrower, and to examine any relevant records and documents.

(c) The Borrower shall have its financial statements (balance sheet and related statement of earnings and expenses) certified annually by an independent accountant or accounting firm acceptable to the Bank and shall promptly after their preparation and not later than four months after the close of the Borrower's fiscal year transmit to the Bank certified copies of such statements and a signed copy of the accountant's or accounting firm's report.

SECTION 5.05. (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, oper-

ations and financial condition of the Borrower and other matters relating to the purposes of the Loan.

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

(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 this Agreement.

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 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. Subject to such exemptions as shall be conferred by the provisions of Section 3.03 and Section 3.04 of the Guarantee Agreement or otherwise, 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 its territories on or in connection with the execution, issue, delivery or registration of this Agreement, the Guarantee Agreement or the Bonds, or the payment of principal,

interest or other charges thereunder; provided, however, that the provisions of this Section shall not apply to taxation of payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Guarantor.

SECTION 5.08. The Borrower shall remit to the Bank, at the Bank's request, funds sufficient for the Bank to pay 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 and registration of the Loan Agreement, the Guarantee Agreement or the Bonds.

SECTION 5.09. (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 amount as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, the Borrower undertakes to insure or cause to be insured the imported goods to be financed out of the proceeds of the Loan against marine, transit and other hazards incident to 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 5.10. Except as the Bank and the Borrower shall otherwise agree, the Borrower shall take from time to time all such action as shall be necessary or advisable to cause its rates for the sale of electricity to be set and maintained at such levels as may be required to provide revenues from its operations at least sufficient, after covering all operating and administrative expenses of the Borrower (including taxes, if any, adequate provision for maintenance, and de-

preciation on a straight-line basis at a rate of not less than 2½ per cent per annum) on its operations, to produce a return of not less than 9% on the Borrower's average net fixed assets in operation, such assets to be reasonably valued in accordance with a method or methods of valuation or revaluation acceptable to the Bank; provided, however, that until the end of 1969: (i) the Borrower's return shall, in the case of the Borrower's average net fixed assets in operation which generate, transmit and deliver electricity to the Central System, be not less than 10%; and (ii) the Borrower's rates for the sale of electricity shall, in the other power systems, be maintained at least at their present levels. In determining the operating and administrative expenses for purposes of the computation in the foregoing proviso, the Borrower's central office overhead expenses shall be reasonably apportioned among the various systems.

For purposes of this Section, "average net fixed assets in operation" shall mean: (i) the value of the Borrower's gross fixed assets in operation less accumulated depreciation at the beginning of the calendar year plus (ii) the value of the gross fixed assets in operation less accumulated depreciation at the end of the year in question, divided by two; provided, however, that when a major asset shall be brought into operation during the year, the value of such asset shall be included in the foregoing computation in respect of that part of the year during which such asset has been in operation.

For the purposes of the First Loan Agreement, the foregoing provisions will, on the Effective Date, replace those of Section 5.10 of the First Loan Agreement.

SECTION 5.11. Except as the Bank and the Borrower shall otherwise agree, the Borrower shall not incur any debt unless its net revenues for the fiscal year next preceding such incurrence or for a later twelve-month period ended prior to such incurrence, whichever is the greater, shall not be less than 1.4 times the maximum debt service

requirements on all debt (including the debt to be incurred) in any succeeding fiscal year. For the purposes of this Section:

- (a) the term "debt" shall mean all debt other than debt incurred in the ordinary course of business maturing by its terms on demand or less than one year from the date on which it is originally incurred;
- (b) debt shall be deemed to be incurred on the date of execution and delivery of a contract, agreement or other instrument providing for such debt or, in the case of a guarantee, on the date of the contract providing for such guarantee;
- (c) the term "net revenues" shall mean gross revenues from all sources adjusted to take account of rates in effect at the time of incurrence of debt even though they were not in effect during the fiscal year or twelve-month period to which such revenues relate, less operating and administrative expenses and provision for taxes, if any, but before provision for depreciation, interest and other charges on debt;
- (d) the term "debt service requirements" shall mean the aggregate amount of amortization (including sinking fund payments, if any), interest and other charges on debt; and
- (e) whenever it shall be necessary to value in the currency of the Guarantor debt payable in another currency, such valuation shall be made on the basis of the rate of exchange at which such other currency is obtainable by the Borrower, at the time such valuation is made, for the purposes of servicing such debt or, if such other currency is not so obtainable, at the rate of exchange that will be reasonably determined by the Bank.

SECTION 5.12. The Borrower shall not undertake, or permit to be undertaken on its behalf, any major works for

the generation, transmission or distribution of electricity unless such works shall be technically and economically feasible and shall be undertaken in accordance with a sound financial plan.

ARTICLE VI

Remedies of the Bank

Amendment of First Loan Agreement

SECTION 6.01. (i) If any event specified in paragraph (a), paragraph (b), paragraph (e) or paragraph (f) of Section 5.02 of the Loan Regulations or in paragraph (b) of Section 6.02 of this Agreement shall occur and shall continue for a period of thirty days, or (ii) if any event specified in paragraph (c) of Section 5.02 of the Loan Regulations or in paragraph (a) of Section 6.02 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in the Loan Agreement or in the Bonds to the contrary notwithstanding.

SECTION 6.02. The following are specified as additional events for the purposes of paragraph (1) of Section 5.02 of the Loan Regulations, namely:

- (a) A default shall have occurred in the performance of any covenant or agreement on the part of the Borrower or the Guarantor under the First Loan Agreement, the First Guarantee Agreement, or the bonds provided for therein.
- (b) Any provision of (i) the *Estatuto* or (ii) the agreements for the sale of power between the Borrower and distributing companies which have been fur-

nished to the Bank, shall have been amended, suspended, assigned or abrogated so as to affect adversely the operations or financial condition of the Borrower or the performance by the Borrower of its obligations under the Loan Agreement.

SECTION 6.03. For the purposes of the First Loan Agreement, paragraph (c) of Section 5.02 of Loan Regulations No. 4 of the Bank, dated February 15, 1961, is hereby amended to read as follows:

“(c) A default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower or the Guarantor under the Loan Agreement, the Guarantee Agreement, or the Bonds, or under the loan agreement dated *June 28*, 1968, between the Bank and the Borrower, the guarantee agreement of even date therewith between the Guarantor and the Bank, or the bonds therein provided for.”;

and the term “Loan Regulations” as used for the purposes of the First Loan Agreement shall mean Loan Regulations No. 4 of the Bank, dated February 15, 1961, as amended hereby.

ARTICLE VII

Effective Date; Termination

SECTION 7.01. The following is specified as an additional matter, within the meaning of Section 9.02 (d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank, namely, that the Borrower has full power and authority to construct and operate the Project and that all corporate and governmental acts, consents and approvals necessary therefor have been duly and validly performed or given.

SECTION 7.02. If this Agreement shall not have come into force and effect by October 28, 1968, this Agreement

and all obligations of the parties hereunder shall terminate, unless the Bank, after consideration of the reasons for the delay, establishes a later date for purposes of this Section. The Bank shall promptly notify the Borrower and the Guarantor of such later date.

ARTICLE VIII

Miscellaneous

SECTION 8.01. The Closing Date shall be December 31, 1971, 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 8.01 of the Loan Regulations:

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:

Instituto Nacional de Electrificación
Guatemala City
Guatemala

Alternative address for cables:

Inde
Guatemala

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.

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By *W. J. Burke Knapp*
Vice President

INSTITUTO NACIONAL DE ELECTRIFICACION

By *S. M. Guasa P.*
Authorized Representative

SCHEDULE 1
Amortization Schedule

Date Payment Due	Payment of Principal (expressed in dollars)*
January 1, 1972	90,000
July 1, 1972	95,000
January 1, 1973	95,000
July 1, 1973	100,000
January 1, 1974	100,000
July 1, 1974	105,000
January 1, 1975	110,000
July 1, 1975	110,000
January 1, 1976	115,000
July 1, 1976	120,000
January 1, 1977	125,000
July 1, 1977	125,000
January 1, 1978	130,000
July 1, 1978	135,000
January 1, 1979	140,000
July 1, 1979	145,000
January 1, 1980	150,000
July 1, 1980	150,000
January 1, 1981	155,000
July 1, 1981	160,000
January 1, 1982	165,000
July 1, 1982	170,000
January 1, 1983	180,000
July 1, 1983	185,000
January 1, 1984	190,000
July 1, 1984	195,000
January 1, 1985	200,000
July 1, 1985	205,000
January 1, 1986	215,000
July 1, 1986	220,000
January 1, 1987	225,000
July 1, 1987	235,000
January 1, 1988	240,000
July 1, 1988	250,000
January 1, 1989	255,000
July 1, 1989	265,000
January 1, 1990	275,000
July 1, 1990	280,000
January 1, 1991	290,000
July 1, 1991	305,000

*To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.03), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

Premiums on Prepayment and Redemption

The following percentages are specified as the premiums payable on repayment in advance of maturity of any part of the principal amount of the Loan pursuant to Section 2.05(b) of the Loan Regulations or on the redemption of any Bond prior to its maturity pursuant to Section 6.16 of the Loan Regulations:

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than three years before maturity	$\frac{1}{2}$ of 1%
More than three years but not more than six years before maturity	1%
More than six years but not more than eleven years before maturity	2%
More than eleven years but not more than sixteen years before maturity	3%
More than sixteen years but not more than nineteen years before maturity	4%
More than nineteen years but not more than twenty-one years before maturity	5%
More than twenty-one years before maturity	6 $\frac{1}{4}$ %

SCHEDULE 2

Description of Project

The Project consists of:

- (a) construction of a steam-electric generating station with one unit of about 33-Mw, at the Borrower's Guacalate generating plant site, complete with cooling tower, step-up transformer and all ancillary installations;
- (b) site investigations, pre-investment studies and design of the first stage of the Atitlán project.

* * *

It is expected that part (a) of the Project will be completed by December 31, 1970, and that part (b) will commence by September 30, 1968 and will be completed by December 31, 1970.

CERTIFICATE

I hereby certify that the foregoing is a true copy of the original in the archives of the International Bank for Reconstruction and Development.

In witness whereof I have signed this Certificate and affixed the Seal of the Bank thereunto this 28th day of June, 1962.

Cyril H. Davis

FOR

SECRETARY