

---

---

LOAN NUMBER 1074 BR

# Guarantee Agreement

(Second Railway Project)

BETWEEN

FEDERATIVE REPUBLIC OF BRAZIL

AND

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

DATED JANUARY 17, 1975

---

---

---

---

LOAN NUMBER 1074 BR

# Guarantee Agreement

(Second Railway Project)

BETWEEN

FEDERATIVE REPUBLIC OF BRAZIL

AND

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

DATED JANUARY 17, 1975

---

---

## GUARANTEE AGREEMENT

AGREEMENT, dated January 17, 1975, 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 herewith between the Bank and Rede Ferroviária Federal S.A. (hereinafter called the Borrower) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to one hundred and seventy-five million dollars (\$175,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition *inter alia* that the Guarantor agree to guarantee the obligations of the Borrower in respect of such loan as hereinafter provided;

WHEREAS the Guarantor represents and warrants that the giving of such guarantee is authorized by Decree Law No. 1312 of February 15, 1974; 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

#### 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 March 15, 1974, with the same force and effect as if they were fully set forth herein (said General Conditions Applicable to Loan and Guarantee Agreements 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 and in Section 1.02 of the Loan Agreement have the respective meanings therein set forth.

## ARTICLE II

### Guarantee; 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 premium, if any, on the prepayment of the Loan and the punctual performance of all the other obligations of the Borrower, all as set forth in the Loan Agreement.

Section 2.02. 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.

Section 2.03. (a) The Guarantor shall enable the Borrower to carry out the Borrower's program of action on uneconomic lines and services referred to in Section 3.07(i) of the Loan Agreement.

(b) In the event that the Guarantor decides to maintain certain lines and services of the Borrower or tariffs for said services for social or other reasons, the Guarantor shall, not later than January 1, 1978 or such other later date as shall be agreed with the Bank, commence to pay to the Borrower through its normalization system the difference between the costs of operating said lines and services and the revenue generated from said lines and services.

## ARTICLE III

### Other Covenants

Section 3.01. (a) It is the policy of the Bank, in making loans to, or with the guarantee of, its members not to seek, in normal circumstances, special security from the member concerned but to ensure that no other external debt shall have priority over its loans in the allocation, realization or distribution of foreign exchange held under the control or for the benefit of such member. To that end, if any lien shall be created on any public assets (as hereinafter defined), as security for any external debt, which will or might result in a priority for the benefit of the creditor of such external debt in the allocation, realization or distribution

of foreign exchange, such lien shall, unless the Bank shall otherwise agree, *ipso facto* and at no cost to the Bank, equally and ratably secure the principal of, and interest and other charges on, the Loan, and the Guarantor, in creating or permitting the creation of such lien, shall make express provision to that effect; provided, however, that, if for any constitutional or other legal reason such provision cannot be made with respect to any lien created on assets of any of its political or administrative subdivisions, the Guarantor shall promptly and at no cost to the Bank secure the principal of, and interest and other charges on, the Loan by an equivalent lien on other public assets satisfactory to the Bank.

(b) The foregoing undertaking shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date; and (iii) 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.

(c) As used in this Section, the term "public assets" means assets of the Guarantor, of any political or administrative subdivision thereof and of any entity owned or controlled by, or operating for the account or benefit of, the Guarantor or any such subdivision, including gold and other foreign exchange assets held by any institution performing the functions of a central bank or exchange stabilization fund, or similar functions, for the Guarantor.

Section 3.02. The Guarantor shall take all action necessary on its part to ensure that amounts due by it to the Borrower, on account of normalization and other payments, will be settled promptly.

Section 3.03. The Guarantor shall, by January 1, 1976 or such other later date as shall be agreed with the Bank, take all action necessary on its part to neutralize the effects on the Borrower's competitive position of the 10% surcharge levied on freight rates for merchandise bound for domestic consumption.

Section 3.04. The Guarantor shall take, or cause to be taken, all reasonable action required for the prompt issuance to the Borrower of such import and other permits and licenses as shall be necessary for the acquisition and importation of goods and services required for the carrying out of the Project.

## ARTICLE IV

## Representative of the Guarantor; Addresses

Section 4.01. The *Ministro da Fazenda* of the Guarantor is designated as representative of the Guarantor for the purposes of Section 11.03 of the General Conditions.

Section 4.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Guarantor:

Ministério da Fazenda  
Edifício Ministério da Fazenda  
Esplanada dos Ministérios  
Brasilia, Brazil

Cable address:

MINIFAZ  
Brasilia

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 in the District of Columbia, United States of America, as of the day and year first above written.

FEDERATIVE REPUBLIC OF BRAZIL

By /s/ Mario Henrique Simonsen  
*Authorized Representative*

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ Gerald Alter  
*Regional Vice President  
Latin America and the Caribbean*