
LOAN NUMBER 1114 PAN

Guarantee Agreement

(Fishing Port Project)

BETWEEN

REPUBLIC OF PANAMA

AND

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

DATED MAY 27, 1975

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DATED MAY 27, 1975

GUARANTEE AGREEMENT

AGREEMENT, dated May 27, 1975, between REPUBLIC OF PANAMA (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 *Autoridad Portuaria Nacional* (hereinafter called the Borrower) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to twenty-four million dollars (\$24,000,000), 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

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, 1971, 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 to make arrangements, satisfactory to the Bank, promptly as needed to carry out the Project, to provide the Borrower or cause the Borrower to be provided with (a) an amount equivalent to thirteen million five hundred thousand dollars (\$13,500,000); and (b) whenever there is reasonable cause to believe that the funds available to the Borrower, including the before-mentioned amount, will be inadequate to meet the estimated expenditures required for the carrying out of the Project, such other funds as are needed to meet such expenditures.

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; and (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

(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:

(a) carry out or cause to be carried out Parts J and K of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial and engineering practices; and

(b) provide, promptly as needed, the funds, facilities, services and other resources required for the purpose.

Section 3.03. The Guarantor shall cause the access road included in Part J of the Project to be adequately maintained and all necessary repairs thereof to be made, all in accordance with sound engineering practices.

Section 3.04. The Guarantor shall take all such action as shall be necessary to acquire as and when needed all such land and rights in respect of land as shall be required for the construction of the facilities included in Parts J and K of the Project.

Section 3.05. The Guarantor shall take all such action as shall be necessary to build, as and when needed, adequate housing facilities close to the Fishing Port area for the Fishing Port personnel.

Section 3.06. The Guarantor shall at all times maintain a qualified and experienced administrator in the position of *Director General* of the Borrower.

Section 3.07. The Guarantor shall, not later than June 30, 1976 or such other later date as the Bank shall agree, furnish to the Bank a timetable, adequate for the purposes of the Project, for the transfer of all shrimp-processing plants and ship repair yards operating in the Province of Panamá to the Fishing Port.

ARTICLE IV

Representative of the Guarantor; Addresses

Section 4.01. The *Ministro de Hacienda y Tesoro* 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:

Ministerio de Hacienda y Tesoro
Panamá
República de Panamá

Cable address:

Hacienda
Panamá, R.P.

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.

REPUBLIC OF PANAMA

By /s/ Miguel Sanchiz

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Adalbert Krieger

*Regional Vice President
Latin America and the Caribbean*