
LOAN LUMBER 1121 BO

Guarantee Agreement

(Second Railway Project)

BETWEEN

REPUBLIC OF BOLIVIA

AND

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

DATED JUNE 5, 1975

LOAN LUMBER 1121 BO

Guarantee Agreement

(Second Railway Project)

BETWEEN

REPUBLIC OF BOLIVIA

AND

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

DATED JUNE 5, 1975

GUARANTEE AGREEMENT

AGREEMENT, dated June 5, 1975, between REPUBLIC OF BOLIVIA (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 *Empresa Nacional de Ferrocarriles* (hereinafter called the Borrower) the Bank has agreed to make to the Borrower a loan in various currencies equivalent to thirty-two million dollars (\$32,000,000), 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, 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.

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, specific 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) cause the Borrower to carry out the Investment Plan and the Action Program with due diligence and efficiency and in conformity with appropriate administrative, financial and engineering practices, and shall promptly provide the funds, facilities, services and other resources required for the purpose, whenever the Borrower shall be unable to do so;

(b) periodically review or cause the Investment Plan and the Action Program to be reviewed in order to evaluate the results thereof and adapt them to changing circumstances;

(c) not make or permit any changes in the Investment Plan or the Action Program without the agreement of the Bank; and

(d) whenever the Borrower's cost level shall rise substantially, take all steps necessary to allow the Borrower promptly to increase its tariffs by an amount sufficient to attain the financial targets set forth in Exhibit B to Schedule 2 to the Loan Agreement, it being understood that the calculation of such cost shall include the cost of subsidized food (*pulperias*) provided by the Borrower to its employees.

Section 3.03. Except as the Bank shall otherwise agree, the Guarantor shall provide to the Borrower, during the first week of each quarter of the Borrower's fiscal year, funds in such amounts as shall be required to cover the Borrower's estimated expenditures for the following quarter not covered by the Borrower's estimated operating revenues for such quarter, in accordance with the Borrower's annual budget for operations and investment, provided that, should there be any difference between the estimated and actual deficits, said difference shall be taken into account in determining the amount of subsequent payments to the Borrower under this provision.

Section 3.04. Except as the Bank shall otherwise agree, the Guarantor shall:

(a) cause the finances of the Santa Cruz - Mamoré railway line and any extension thereof and of the Guaqui - La Paz line to be separated from those of the Borrower and incorporate the finances of each such line to those of the

Borrower only when the revenues arising from operations of each such line are sufficient to cover operating expenses and debt service attributable to each such line;

(b) cause investments for the extension of the Santa Cruz - Mamoré line to Trinidad to be made after the Guarantor has carried out studies on the economic justification of such extension and afforded the Bank a reasonable opportunity to exchange views;

(c) reimburse the Borrower for any losses derived from the operations of the lines referred to in paragraphs (a) and (b) above, once the Borrower has been entrusted with the operations and finances thereof; and

(d) reimburse the Borrower for any expenses resulting from the upgrading of the lines referred to in paragraphs (a) and (b) above to the technical standards of the Railways.

Section 3.05. The Guarantor shall cause investments for the interconnection of the Eastern and Western Systems to be made only after an adequate study demonstrating the economic justification thereof has been carried out and the Bank has been afforded a reasonable opportunity to comment thereon.

ARTICLE IV

Representative of the Guarantor; Addresses

Section 4.01. The *Ministro de Finanzas* 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 Finanzas
La Paz,
Bolivia

Cable address:

MINFINANZAS
La Paz

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 BOLIVIA

By /s/ Roberto Capriles

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Adalbert Krieger

*Regional Vice President
Latin America and the Caribbean*