

No. 6938

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

**Guarantee Agreement—*Railway Rehabilitation Project*
(with annexed Loan Regulations No. 4 and Loan Agreement between the Bank and The Peruvian Corporation Limited). Signed at Washington, on 13 March 1963**

Official text: English.

Registered by the International Bank for Reconstruction and Development on 24 September 1963.

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

Contrat de garantie — *Projet relatif à la réfection des chemins de fer* (avec, en annexe, le Règlement n° 4 sur les emprunts et le Contrat d'emprunt entre la Banque et The Peruvian Corporation Limited). Signé à Washington, le 13 mars 1963

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 24 septembre 1963.

No. 6938. GUARANTEE AGREEMENT¹ (*RAILWAY REHABILITATION PROJECT*) BETWEEN THE REPUBLIC OF PERU AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 13 MARCH 1963

AGREEMENT, dated March 13, 1963, between REPUBLIC OF PERU (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 The Peruvian Corporation Limited (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 thirteen million two hundred and fifty thousand dollars (\$13,250,000), 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 modifications thereof set forth in Schedule 3⁴ to 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.

Section 1.02. Wherever used in this Guarantee Agreement, unless the context shall otherwise require, the terms which are defined in the Loan Agreement shall have the respective meanings therein set forth.

¹ Came into force on 26 August 1963, upon notification by the Bank to the Government of Peru.

² See p. 254 of this volume.

³ See p. 252 of this volume.

⁴ See p. 276 of this volume.

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 unconditionally 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 Notes, and the premium, if any, on the prepayment of the Loan or the redemption of the Notes, all as set forth in the Loan Agreement and in the Notes.

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 Notes, 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 or of any of its political subdivisions or of any agency of the Guarantor or of any such political subdivision, including the Banco Central de Reserva del Perú.

Section 3.02. (a) The Guarantor and the Bank shall cooperate 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 principal of, and interest and other charges on, the Loan and the Notes 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 Note to a holder thereof other than the Bank when such Note is beneficially owned by an individual or corporate resident of the Guarantor.

Section 3.04. This Agreement, the Loan Agreement, the Notes and the Mortgage 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 3.05. The principal of, and interest and other charges on, the Loan and the Notes shall be paid free from all restrictions imposed under the laws of the Guarantor or laws in effect in its territories.

Section 3.06. The Guarantor covenants that it will from time to time (a) grant and maintain, or allow to be granted and maintained, railway rates which will enable the Borrower to obtain gross revenues sufficient to cover, *inter alia* : (i) the costs of operation (including without limitation, wages, salaries, social benefits, supplies, maintenance and costs of administration) ; (ii) depreciation, and (iii) interest ; and (b) cause the agency or agencies of the Guarantor responsible for the fixing, adjustment and administration of such rates to effect, when necessary, but in any case at least once a year, a review of such rates in order to verify that such rates are adequate to meet these needs of the Borrower.

Section 3.07. The Guarantor covenants that it will not take or permit any of its political subdivisions or agencies to take any action which would prevent or interfere with the performance by the Borrower of its obligations contained in the Loan Agreement or in the Mortgage, and will take or cause to be taken all action necessary or appropriate to enable the Borrower to perform such obligations.

Article IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the Loan Regulations, its guarantee on the Notes to be executed and delivered by the Borrower. The Ministro de Hacienda y Comercio 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 de Hacienda y Comercio
Lima, Peru

Alternative address for cablegrams and radiograms :

Minhacienda
Lima, Perú

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 Ministro de Hacienda y Comercio 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 Peru :

By F. BERCKEMEYER
Authorized Representative

International Bank for Reconstruction and Development :

By George D. WOODS
President

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 4, DATED 15 FEBRUARY 1961

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

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