

No. 6994

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

**Guarantee Agreement—*Railroad Rehabilitation Project*
(with annexed Loan Regulations No. 4 and Loan Agree-
ment between the Bank and Ferrocarriles Nacionales de
Colombia). Signed at Washington, on 21 June 1963**

Official text: English.

Registered by the International Bank for Reconstruction and Development on 26 November 1963.

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

**Contrat de garantie — *Projet relatif à la réfection des che-
mins de fer* (avec, en annexe, le Règlement n° 4 sur les
emprunts et le Contrat d'emprunt entre la Banque et
les Ferrocarriles Nacionales de Colombia). Signé à
Washington, le 21 juin 1963**

Texte officiel anglais.

Enregistré par la Banque internationale pour la reconstruction et le développement le 26 novembre 1963.

No. 6994. GUARANTEE AGREEMENT¹ (*RAILROAD REHABILITATION PROJECT*) BETWEEN THE REPUBLIC OF COLOMBIA AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 21 JUNE 1963

AGREEMENT, dated June 21, 1963, between REPUBLIC OF COLOMBIA (hereinafter called the Guarantor) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS, by an agreement dated August 26, 1952² between the Guarantor and the Bank, the Bank agreed to lend to the Guarantor the sum of \$25,000,000 or the equivalent thereof in currencies other than dollars to assist in financing the costs of a project included in a program of the Guarantor for the reorganization of the railway system of Colombia and for the expansion, rehabilitation and improvement of the lines operated by the Consejo Administrativo de los Ferrocarriles Nacionales or its successor organization ; and

WHEREAS, as contemplated by such agreement, Ferrocarriles Nacionales de Colombia (hereinafter called the Borrower) was organized by Decree No. 3129 of 1954 as an autonomous non-political organization to administer the railway system of Colombia on a financially self-supporting basis ; and

WHEREAS, by an agreement dated June 15, 1955³ between the Bank and the Borrower, the Bank agreed to lend to the Borrower the sum of \$15,900,000 or the equivalent thereof in currencies other than dollars to assist in a further expansion, rehabilitation and improvement of the railway system of the Borrower ; and

WHEREAS, by an agreement dated September 20, 1960⁴ between the Bank and the Borrower, the Bank agreed to lend to the Borrower the sum of \$5,400,000 or the equivalent thereof in currencies other than dollars to finance the foreign currency part of the cost of railroad equipment ; and

¹ Came into force on 7 August 1963, upon notification by the Bank to the Government of Colombia.

² United Nations, *Treaty Series*, Vol. 159, p. 339.

³ United Nations, *Treaty Series*, Vol. 248, p. 161.

⁴ United Nations, *Treaty Series*, Vol. 390, p. 173.

WHEREAS, by an agreement of even date herewith between the Bank and the Borrower, which agreement and the schedules therein referred to are hereinafter called the Loan Agreement,¹ the Bank has agreed to make to the Borrower a loan in various currencies in an aggregate principal amount equivalent to thirty million dollars (\$30,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that the Guarantor agree to guarantee the payment of the principal, interest and other charges on such loan and the obligations of the Borrower in respect thereof; and

WHEREAS the Guarantor, in consideration of the Bank's entering into the Loan Agreement with the Borrower, has agreed to guarantee the payment of the principal, interest and other charges on such loan and the obligations of the Borrower in respect thereof;

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, 1961² (said Loan Regulations No. 4 being hereinafter called the Loan Regulations) with the same force and effect as if they were fully set forth herein.

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 Bonds, the premium, if any, on the prepayment of the Loan or the redemption of the Bonds, and the punctual performance of all the covenants and agreements of the Borrower, all as set forth in the Loan Agreement and in the Bonds.

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 carrying out 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. Any funds supplied to the Borrower by the Guarantor pursuant to this Section will

¹ See p. 170 of this volume.

² See p. 168 of this volume.

be supplied in such manner as to be recoverable only out of net earnings of the Borrower.

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

As used in this Section, (a) the term "assets of the Guarantor" includes assets of the Guarantor or of any of its political subdivisions or of any Agency or of Banco de la República or any other institution acting as the central bank of the Guarantor, and (b) the term "Agency" means any agency or instrumentality of the Guarantor or of any political subdivision of the Guarantor and shall include any institution or organization which is owned or controlled directly or indirectly by the Guarantor or by any political subdivision of the Guarantor or the operations of which are conducted primarily in the interest of or for account of the Guarantor or any political subdivision of the Guarantor.

Section 3.02. (a) The Guarantor and the Bank shall co-operate 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 Bonds 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 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 3.04. This Agreement, the Loan Agreement and the Bonds 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 Bonds 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, upon application by the Borrower, grant and maintain, or cause to be granted and maintained, rates and fares which will enable the Borrower to provide revenues sufficient to cover fixed costs, costs of operation and maintenance, depreciation and reserves, to maintain sufficient working capital and to provide for the purchase of equipment and betterments.

Article IV

Section 4.01. The Guarantor shall endorse, in accordance with the provisions of the Loan Regulations, its guarantee on the Bonds to be executed and delivered by the Borrower. The Minister of Finance and Public Credit 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 :

Republic of Colombia
Ministerio de Hacienda y Crédito Público
Palacio de los Ministerios, Plaza San Agustín
Bogotá, Colombia