

No. 4221

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

**Loan Agreement—*Highway Maintenance and Construction Project* (with annexed Loan Regulations No. 3). Signed at Washington, on 20 September 1957**

*Official text: English.*

*Registered by the International Bank for Reconstruction and Development on 18 March 1958.*

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

**Contrat d'emprunt — *Projet de travaux d'entretien et de construction relatif au réseau routier* (avec, en annexe le Règlement n° 3 sur les emprunts). Signé à Washington, le 20 septembre 1957**

*Texte officiel anglais.*

*Enregistré par la Banque internationale pour la reconstruction et le développement le 18 mars 1958.*

No. 4221. LOAN AGREEMENT<sup>1</sup> (*HIGHWAY MAINTENANCE AND CONSTRUCTION PROJECT*) BETWEEN THE REPUBLIC OF ECUADOR AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT. SIGNED AT WASHINGTON, ON 20 SEPTEMBER 1957

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AGREEMENT, dated September 20, 1957, between REPUBLIC OF ECUADOR (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS the Bank has agreed to make to the Borrower a loan in various currencies equivalent to fourteen million five hundred thousand dollars (\$14,500,000) on the terms and conditions hereinafter set forth, but only on condition that the Banco Central del Ecuador accept its obligations under Section 5.03 of this Agreement; and

WHEREAS the Banco Central del Ecuador, in consideration of the Bank's entering into this Agreement with the Borrower, has agreed to accept such obligations of Banco Central del Ecuador and to evidence its acceptance thereof by causing this Agreement to be signed by its duly authorized representative;

NOW THEREFORE the parties hereto hereby agree as follows :

*Article 1*

LOAN REGULATIONS; SPECIAL DEFINITIONS

*Section 1.01.* The parties to this Loan Agreement accept all the provisions of Loan Regulations No. 3 of the Bank dated June 15, 1956,<sup>2</sup> subject, however, to the modification thereof set forth in Schedule 3<sup>3</sup> to this Agreement (said Loan Regulations No. 3 as so modified being hereinafter called the Loan Regulations), with the same force and effect as if they were fully set forth herein.

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<sup>1</sup> Came into force on 3 January 1958, upon notification by the Bank to the Government of Ecuador.

<sup>2</sup> See p. 258 of this volume.

<sup>3</sup> See p. 256 of this volume.

*Section 1.02.* Except where the context otherwise requires, the following terms shall have the following meanings wherever used in this Agreement :

(a) The term " First Gasoline Tax " shall mean the gasoline tax created by Emergency Decree Law No. 12 of the Borrower, published in the *Registro Oficial* number 233 of June 8, 1953;

(b) The term " net proceeds of the First Gasoline Tax " shall mean the larger of either of the following amounts :

- (i) the amount remaining from the gross proceeds of such tax accruing subsequent to December 31, 1957, after deducting such amounts as are required to make payments of principal of, and interest on, the Dollar Obligations of the Borrower; or
- (ii) in the year 1958, 54 % of the gross proceeds of such tax, and in each calendar year thereafter, 64 % of the gross proceeds of such tax.

(c) The term " Dollar Obligations of the Borrower " shall mean the dollar obligations of the Borrower as described in a separate table agreed upon by the Borrower and the Bank.

## *Article II*

### THE LOAN

*Section 2.01.* The Bank agrees to lend to the Borrower, on the terms and conditions in this Agreement set forth or referred to, an amount in various currencies equivalent to fourteen million five hundred thousand dollars (\$14,500,000).

*Section 2.02.* The Bank shall open a Loan Account on its books in the name of the Borrower and shall credit to such Account the amount of the Loan. The amount of the Loan may be withdrawn from the Loan Account as provided in, and subject to the rights of cancellation and suspension set forth in, the Loan Regulations.

*Section 2.03.* The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ( $\frac{3}{4}$  of 1%) per annum on the principal amount of the Loan not so withdrawn from time to time. Notwithstanding the provisions of Section 2.02 of the Loan Regulations, such commitment charge shall accrue from a date sixty days after the date of this Agreement to the respective dates on which amounts shall be withdrawn by the Borrower from the Loan Account as provided in Article IV of the Loan Regulations or shall be cancelled pursuant to Article V of the Loan Regulations.

*Section 2.04.* The Borrower shall pay interest at the rate of five and three-fourths per cent ( $5\frac{3}{4}$ %) per annum on the principal amount of the Loan so withdrawn and outstanding from time to time.

*Section 2.05.* Except as the Borrower and the Bank shall otherwise agree, the charge payable for special commitments entered into by the Bank at the request of the Borrower pursuant to Section 4.02 of the Loan Regulations shall be at the rate of one-half of one per cent ( $\frac{1}{2}$  of 1%) per annum on the principal amount of any such special commitments outstanding from time to time.

*Section 2.06.* Interest and other charges shall be payable semi-annually on March 15 and September 15 in each year.

*Section 2.07.* The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 1<sup>1</sup> to this Agreement.

### Article III

#### USE OF PROCEEDS OF THE LOAN

*Section 3.01.* The Borrower shall cause the proceeds of the Loan to be applied exclusively to financing the cost of goods required to carry out the Project described in Schedule 2<sup>2</sup> to this Agreement. The specific goods to be financed out of the proceeds of the Loan and the methods and procedures for procurement of such goods shall be determined by agreement between the Borrower and the Bank, subject to modification by further agreement between them.

*Section 3.02.* The Borrower shall cause all goods financed out of the proceeds of the Loan to be used in the territories of the Borrower exclusively in the carrying out of the Project.

### Article IV

#### BONDS

*Section 4.01.* The Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in the Loan Regulations.

*Section 4.02.* The *Ministro del Tesoro* of the Borrower and such person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 6.12 of the Loan Regulations.

### Article V

#### PARTICULAR COVENANTS

*Section 5.01.* (a) The Borrower shall cause the Project to be carried out with due diligence and efficiency and in conformity with sound engineering and financial practices. To that end, the Borrower shall employ engineering

<sup>1</sup> See p. 254 of this volume.

<sup>2</sup> See p. 256 of this volume.

consultants acceptable to the Bank upon terms and conditions satisfactory to the Bank, including terms and conditions under which the execution of the Project shall be under the supervision of such consultants.

(b) Except as the Bank shall otherwise agree, all roads included in part B of the Project shall be constructed or reconstructed by contractors satisfactory to the Bank employed under contracts satisfactory to the Bank.

(c) The general design standards and the types of pavement to be used for the roads included in part B of the Project shall be determined by Agreement between the Borrower and the Bank.

(d) The Borrower shall cause to be furnished to the Bank, promptly upon their preparation, the detailed program for part A of the Project and the work program and plans and specifications for part B of the Project, and any material modifications subsequently made therein, in such detail as the Bank shall from time to time request.

(e) The Borrower shall maintain or cause to be maintained records adequate to identify the goods financed out of the proceeds of the Loan, to disclose the use thereof in the Project, and to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the financial condition and operations of the agency or agencies of the Borrower responsible for the execution or operation of the Project or any part thereof; shall enable the Bank's representatives to inspect the Project, the goods and any relevant records and documents; and shall furnish to the Bank all such information as the Bank shall reasonably request concerning the expenditure of the proceeds of the Loan, the Project, and the goods, and the financial condition and operations of the agency or agencies of the Borrower responsible for the execution or operation of the Project or any part thereof.

(f) Without limitation or restriction upon the foregoing provisions of this Section, the Borrower covenants that all designs and specifications to be used in connection with carrying out the Project shall be either prepared or approved by the engineering consultants referred to in paragraph (a) of this Section.

*Section 5.02.* (a) The Borrower 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 Borrower, such information shall include information with respect to financial and economic conditions in the territories of the Borrower and the international balance of payments position of the Borrower.

(b) The Borrower 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 Borrower 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 Borrower shall afford all reasonable opportunity for accredited representatives of the Bank to visit any part of the territories of the Borrower for purposes related to the Loan.

*Section 5.03.* It is the mutual intention of the Borrower and the Bank that no external debt shall enjoy any priority over the Loan by way of a lien hereafter created on governmental assets (including any priority in the allocation or realization of foreign exchange). To that end, the Borrower and Banco Central del Ecuador undertake that, except as the Bank shall otherwise agree, if any lien shall be created on any assets of the Borrower or of the Banco Central del Ecuador, 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. Within the limits of its constitutional powers, the Borrower will make the foregoing undertaking effective with respect to liens on assets of any of the Borrower's agencies including agencies granted autonomy by the Constitution of Ecuador (other than Banco Central del Ecuador), or any of the Borrower's political subdivisions or of any agency of any such political subdivision, and to the extent that the Borrower is unable within the limits of its constitutional powers to make such undertaking effective, the Borrower will give to the Bank an equivalent lien satisfactory to the Bank. 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; (iii) any lien arising in the ordinary course of banking transactions to secure a debt maturing not more than one year after the date on which it is originally incurred; or (iv) any lien solely upon revenues or receipts in currency of the Borrower which is given by a political subdivision (*consejo provincial* or *municipalidad*) or by an agency of a political subdivision of the Borrower under arrangements containing no provisions which would result in priority in the allocation or realization of foreign exchange.

*Section 5.04.* 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 or fees imposed under the laws of the Borrower or laws in effect in its

territories; provided, however, that the provisions of this Section shall not apply to taxation of, or fees upon, 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 Borrower.

*Section 5.05.* The Loan Agreement and the Bonds shall be free from any taxes or fees that shall be imposed under the laws of the Borrower or laws in effect in its territories on or in connection with the execution, issue, delivery or registration thereof and the Borrower shall pay all such taxes and fees, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries.

*Section 5.06.* 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 Borrower or laws in effect in its territories.

*Section 5.07.* The Borrower shall satisfy the Bank that adequate arrangements have been made to insure the goods financed out of the proceeds of the Loan against risks incident to their purchase and importation into the territories of the Borrower.

*Section 5.08.* Without limitation or restriction upon any other provision of this Agreement :

(a) the Borrower shall at all times, by appropriation or otherwise, make available for disbursement promptly as they are needed, all sums which shall be required for the carrying out of the Project.

(b) the Borrower undertakes that, except as the Bank shall otherwise agree, the net proceeds of the First Gasoline Tax shall be applied exclusively to financing the cost, in the currency of the Borrower, of goods required to carry out part B of the Project.

*Section 5.09.* The Borrower shall cause all roads in its national road system to be adequately maintained and shall cause all necessary repairs thereof to be made, all in accordance with sound engineering practices.

*Section 5.10.* The Borrower and the Bank are agreed that the Project shall enjoy the highest priority and that, until the Project shall have been carried out, and except as the Borrower and the Bank shall otherwise agree, the Borrower shall not hereafter incur any indebtedness in foreign currency to finance in whole or in part any road construction, reconstruction or maintenance.

*Article VI*

## REMEDIES OF THE BANK

*Section 6.01.* (i) If any event specified in paragraph (a) or paragraph (b) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of thirty days, or (ii) if any event specified in paragraph (c) of Section 5.02 of the Loan Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Bank to the Borrower, then at any subsequent time during the continuance thereof, the Bank, at its option, may declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Agreement or in the Bonds to the contrary notwithstanding.

*Article VII*

## EFFECTIVE DATE; TERMINATION

*Section 7.01.* The following events are specified as additional conditions to the effectiveness of this Agreement within the meaning of Section 9.01 (b) of the Loan Regulations :

(a) The Borrower shall have retained engineering consultants pursuant to Section 5.01 (a) of this Agreement;

(b) the Borrower shall have furnished to the Bank evidence satisfactory to the Bank that the undertakings by Banco Central del Ecuador in Section 5.03 of this Agreement contained, are valid and binding obligations of Banco Central del Ecuador;

(c) the Borrower shall have furnished to the Bank evidence satisfactory to the Bank that after the date of this Agreement and prior to the Effective Date Banco Central del Ecuador shall have taken no action which would have constituted a violation of the provisions of Section 5.03 of this Agreement had it been effective on the date such action was taken.

*Section 7.02.* The following is specified as an additional matter, within the meaning of Section 9.02 (c) of the Loan Regulations, to be included in the opinion or opinions to be furnished to the Bank :

That the undertakings by Banco Central del Ecuador in Section 5.03 of the Loan Agreement contained, constitute valid and binding obligations of Banco Central del Ecuador in accordance with their terms.

*Sections 7.03.* A date 90 days after the date of this Agreement is hereby specified for the purposes of Section 9.04 of the Loan Regulations.

*Article VIII*

## MISCELLANEOUS

*Section 8.01.* The Closing Date shall be December 31, 1961.



*Section 8.02.* The following addresses are specified for the purposes of Section 8.01 of the Loan Regulations :

For the Borrower :

Republic of Ecuador  
Ministerio de Obras Públicas y Comunicaciones  
Calle Chile No. 1267  
Quito, Ecuador

Alternative address for cablegrams and radiograms :

Minobras  
Quito

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 8.03.* The *Ministro del Tesoro* of the Borrower is designated for the purposes of Section 8.03 of the Loan Regulations.

IN WITNESS WHEREOF, the Borrower and the Bank, acting through their representatives thereunto duly authorized, have caused this Loan 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, and Banco Central del Ecuador, acting through its duly authorized representative, has evidenced its acceptance of its obligations under Section 5.03 of this Agreement.

Republic of Ecuador :  
By José R. CHIRIBOGA V.  
Authorized representative

International Bank for Reconstruction and Development :  
By Eugene R. BLACK  
President

Banco Central del Ecuador :  
By José R. CHIRIBOGA V.  
Authorized representative

SCHEDULE I  
AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars) *</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars) *</i>
March 15, 1962 . . . . .	\$282,000	March 15, 1970 . . . . .	\$444,000
Sept. 15, 1962 . . . . .	290,000	Sept. 15, 1970 . . . . .	457,000
March 15, 1963 . . . . .	299,000	March 15, 1971 . . . . .	470,000
Sept. 15, 1963 . . . . .	307,000	Sept. 15, 1971 . . . . .	484,000
March 15, 1964 . . . . .	316,000	March 15, 1972 . . . . .	498,000
Sept. 15, 1964 . . . . .	325,000	Sept. 15, 1972 . . . . .	512,000
March 15, 1965 . . . . .	334,000	March 15, 1973 . . . . .	527,000
Sept. 15, 1965 . . . . .	344,000	Sept. 15, 1973 . . . . .	542,000
March 15, 1966 . . . . .	354,000	March 15, 1974 . . . . .	557,000
Sept. 15, 1966 . . . . .	364,000	Sept. 15, 1974 . . . . .	573,000
March 15, 1967 . . . . .	375,000	March 15, 1975 . . . . .	590,000
Sept. 15, 1967 . . . . .	385,000	Sept. 15, 1975 . . . . .	607,000
March 15, 1968 . . . . .	397,000	March 15, 1976 . . . . .	624,000
Sept. 15, 1968 . . . . .	408,000	Sept. 15, 1976 . . . . .	642,000
March 15, 1969 . . . . .	420,000	March 15, 1977 . . . . .	661,000
Sept. 15, 1969 . . . . .	432,000	Sept. 15, 1977 . . . . .	680,000

\* To the extent that any part of the Loan is repayable in a currency other than dollars (see Loan Regulations, Section 3.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any part of the principal amount of the Loan pursuant to Section 2.05 (b) of the Loan Regulations or on the redemption of any Bond prior to its maturity pursuant to Section 6.16 of the Loan Regulations :

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than three years before maturity . . . . .	½%
More than three years but not more than six years before maturity . . . . .	1 ½%
More than six years but not more than eleven years before maturity . . . . .	2 ½%
More than eleven years but not more than sixteen years before maturity . . . . .	3 ½%
More than sixteen years but not more than eighteen years before maturity . . . . .	4 ¼%
More than eighteen years before maturity . . . . .	5 ¼%

## SCHEDULE 2

## DESCRIPTION OF THE PROJECT

The Project consists of :

A. *Road Maintenance*

The execution of a 4-year program for the maintenance of the highways of the Borrower which will be carried out by the Ministry of Public Works of the Borrower. The program includes : (i) the reorganization and strengthening of the national road maintenance organization of the Borrower; (ii) the study and revision of the technical, administrative and accounting methods and procedures of such organization; (iii) the acquisition, reconditioning, operation and maintenance of road maintenance equipment; (iv) the establishment of work shops, warehouses and other facilities for the repair and maintenance of such equipment; and (v) the training of personnel in the planning and supervision of maintenance operations, in the operation, servicing and repair of road maintenance equipment, and in the administration of accounting and cost control systems.

B. *Road Construction*

(1) The completion of construction of a paved all-weather road of approximately 35 kilometers in length from Quito to Aloag, the construction of a paved all-weather road of approximately 200 kilometers from Aloag via Santo Domingo to Quevedo, and the completion of reconstruction to paved all-weather condition of the road of about 80 kilometers in length from Duran to Cochancay. It is expected that this part of the Project will be completed by September 15, 1960.

(2) The construction of a paved all-weather road of approximately 48 kilometers in length from Chone, via San Antonio, to Bahía de Caraquez.

(3) The construction of a paved all-weather road of approximately 164 kilometers in length from Chone to Santo Domingo. The construction of this road will not begin unless and until the Bank is satisfied that (i) satisfactory and substantial progress has been made toward the carrying out of part A and paragraph (1) of this part B of the Project and (ii) that the carrying out as scheduled of part A and of paragraph (1) of this part B of the Project will not thereby be jeopardized.

## SCHEDULE 3

## MODIFICATION OF LOAN REGULATIONS NO. 3

For the purposes of this Agreement the provisions of Loan Regulations No. 3 of the Bank, dated June 15, 1956, shall be deemed to be modified as follows :

By the deletion of paragraph (c) of Section 5.02 and the substitution therefor of a new paragraph (c) as follows :

“A default shall have occurred in the performance of any other covenant or agreement on the part of the Borrower under the Loan Agreement or the Bonds, or on the part of Banco Central del Ecuador under Section 5.03 of the Loan Agreement.”

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LOAN REGULATIONS No. 3, DATED 15 JUNE 1956

REGULATIONS APPLICABLE TO LOANS MADE BY THE BANK TO MEMBER GOVERNMENTS

*[Not published herein. See United Nations, Treaty Series, Vol. 280, p. No. 4065.]*