

No. 4922

**UNITED STATES OF AMERICA
and
NICARAGUA**

**Exchange of notes constituting an agreement relating to the
guaranty of private investments. Managua, 14 April
1959**

Official texts: English and Spanish

Registered by the United States of America on 9 October 1959

**ÉTATS-UNIS D'AMÉRIQUE
et
NICARAGUA**

**Échange de notes constituant un accord relatif à la garantie
des investissements privés. Managua, 14 avril 1959**

Textes officiels anglais et espagnol

Enregistré par les États-Unis d'Amérique le 9 octobre 1959.

No. 4922. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND NICARAGUA RELATING TO THE GUARANTY OF PRIVATE INVESTMENTS. MANAGUA, 14 APRIL 1959

I

The American Ambassador to the Nicaraguan Minister of Foreign Affairs

No. 48

Managua, April 14, 1959

Excellency :

I have the honor to refer to conversations which have recently taken place between representatives of our two Governments, relating to guaranties authorized by Section 413 (b) (4) of the Mutual Security Act of 1954, as amended. I also have the honor to confirm the following understandings reached as a result of these conversations :

1. The Governments of the Republic of Nicaragua and the United States of America will, upon the request of either of them, consult respecting projects in Nicaragua proposed by nationals of the United States of America with regard to which guaranties under Section 413 (b) (4) of the Mutual Security Act of 1954, as amended, have been made or are under consideration.

2. The Government of the United States of America agrees that it will issue no guaranty with regard to any project unless it is approved by the Government of the Republic of Nicaragua.

3. With respect to such guaranties extending to projects which are approved by the Government of the Republic of Nicaragua in accordance with the provisions of the aforesaid Section 413 (b) (4), the Government of the Republic of Nicaragua agrees :

a. That if the Government of the United States of America makes payment in United States dollars to any person under any such guaranty, the Government of the Republic of Nicaragua will recognize the transfer to the United States of America of any right, title or interest of such person in assets, currency, credits, or other property on account of which such payment was made and the subrogation of the United States of America to any claim or cause of action, or right of such person arising in connection therewith.

b. That cordoba amounts acquired by the Government of the United States of America pursuant to such guaranties shall be accorded treatment no less favorable than that accorded to private funds arising from transactions of United States nationals

¹ Came into force on 14 April 1959 by the exchange of the said notes.

which are comparable to the transactions covered by such guaranties, and that such cordoba amounts will be freely available to the Government of the United States of America for administrative expenditures.

c. That if the Government of the United States of America issues guaranties to cover losses by reason of war with respect to investments in the Republic of Nicaragua the Government of the Republic of Nicaragua agrees that nationals of the United States of America to whom such guaranties have been issued, will be accorded by the Government of the Republic of Nicaragua treatment no less favorable than that accorded, in like circumstances, to its nationals or nationals of third countries, with reference to any reimbursement, compensation, indemnification, or any other payment, including the distribution of reparations received from enemy countries, that the Government of the Republic of Nicaragua may make or pay for losses incurred by reason of war ; if the Government of the United States of America makes payment in U.S. dollars to any national of the United States of America under a guaranty for losses by reason of war, the Government of the Republic of Nicaragua will recognize the transfer to the United States of America of any right, privilege, or interest, or any part thereof, that such nationals may be granted or become entitled to as a result of the aforementioned treatment by the Government of the Republic of Nicaragua.

d. That any claim against the Government of the Republic of Nicaragua to which the Government of the United States of America may be subrogated as a result of any payment under such a guaranty, shall be the subject of direct negotiations between the two Governments. If within a reasonable period, they are unable to settle the claim by agreement, it shall be referred for final and binding determination to a sole arbitrator selected by mutual agreement. If the Governments are unable, within a period of three months, to agree upon such selection, the arbitrator shall be one who may be designated by the President of the International Court of Justice at the request of either Government. This sub-paragraph *d.*, shall not be applicable to the type of guaranties provided for in sub-paragraph *c.*, immediately above.

Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of the Republic of Nicaragua, the Government of the United States of America will consider that this note and Your reply thereto constitute an agreement between the two Governments on this subject, the agreement to enter into force on the date of your note in reply.

Accept, Excellency, the renewed assurances of my highest and most distinguished consideration.

THOS. E. WHELAN

His Excellency Doctor Alejandro Montiel Argüello
Minister of Foreign Affairs
Managua

[TRANSLATION¹ — TRADUCTION²]

REPUBLIC OF NICARAGUA, CENTRAL AMERICA

MINISTRY OF FOREIGN AFFAIRS

Diplomatic Department
MS. No. 020

Managua, D. N., April 14, 1959

Mr. Ambassador :

I have the honor to acknowledge receipt of Your Excellency's courteous communication No. 48 of today's date which, with reference to the recent conversations between representatives of our two Governments, relating to the guaranties authorized by Section 413 (b) (4) of the Mutual Security Act of 1954, as amended, confirms the following understandings reached as a result of these conversations :

[*See note I*]

In conclusion, Your Excellency adds that the Government of the United States of America considers that Your Excellency's note and the reply thereto indicating that the foregoing provisions are acceptable to my Government will constitute an agreement between our two Governments which shall enter into force on the date of the note in reply.

In reply, I am happy to inform Your Excellency that the provisions transcribed above are acceptable to my Government, Your Excellency's note and this note in reply constituting an agreement between our respective Governments, which shall enter into force on this date.

I am happy to avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

A. MONTIEL ARGÜELLO

His Excellency Thomas E. Whelan
Ambassador Extraordinary and Plenipotentiary
of the United States of America
Managua

¹ Translation by the Government of the United States of America.

² Traduction du Gouvernement des États-Unis d'Amérique.